

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND
3 NORTHERN DIVISION

4 UNITED STATES OF AMERICA,)
5 Plaintiff,)
6)
7 vs.) CRIMINAL CASE NO. CCB-16-0267
8)
9 DANTE BAILEY, et al.,)
10 Defendants.)
11)

12 Monday, April 29, 2019
13 Courtroom 1A
14 Baltimore, Maryland

15 BEFORE: THE HONORABLE CATHERINE C. BLAKE, JUDGE
16 (AND A JURY)

17 VOLUME XXI

18 For the Plaintiff:

19 Christina Hoffman, Esquire
20 Lauren Perry, Esquire
21 Assistant United States Attorneys

22 For the Defendant Dante Bailey:

23 Paul Enzinna, Esquire
24 Teresa Whalen, Esquire

25 Reported by:

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1 For the Defendant Randy Banks:

2 Brian Sardelli, Esquire

3 For the Defendant Corloyd Anderson:

4 Elita Amato, Esquire

5

6 For the Defendant Jamal Lockley:

7 Harry Trainor, Esquire

8 For the Defendant Shakeen Davis:

9 Paul Hazlehurst, Esquire

10 Also Present:

11 Special Agent Christian Aanonsen, ATF

1 P R O C E E D I N G S

2 (9:40 a.m.)

3 **THE COURT:** Good morning.

4 May I see counsel at the bench, please.

5 (Bench conference on the record:

6 **THE COURT:** Good morning.

7 So I just wanted to put on the record up here at the
8 bench that when Mr. Shakeen Davis was searched coming into the
9 courthouse, the marshals found, I'm told, two razor blades in
10 his shoe.

11 For that reason, they requested -- and I authorized --
12 that he be placed in three-point restraints, which I believe
13 has been done.

14 The marshals also provided -- made sure he has a shirt
15 or a sweatshirt of some kind such that if he chooses to keep
16 his hands and arms at his side, the jury will not be able to
17 view the fact that he is in cuffs.

18 I have been further advised that he is pulling up the
19 sleeves of his shirt. If he chooses to do that, it may become
20 obvious to the jury that he is in restraints.

21 I don't know what else I can say about that at the
22 moment.

23 On a different topic, it has occurred to me,
24 Mr. Sydni Frazier's leaving the trial, counsel reasonably were
25 concerned that perhaps the jury might think that he had pled

1 guilty -- of course, I told them that doesn't make any
2 difference anyway.

3 What I was thinking, that in case -- one thing I might
4 do, if you would like, to sort of reinforce that, in fact, it
5 was because of Mr. Davis's illness, is just to say, "I thought
6 you'd like to know Mr. Davis came through the surgery very
7 well."

8 **MS. HOFFMAN:** Good.

9 **MS. AMATO:** I would like that. I think that would be
10 great.

11 **MR. TRAINOR:** I actually talked to him Friday, and
12 that is true.

13 **THE COURT:** Yes. I got the message from Ms. Essex.
14 So I do believe it's true, which is great news.

15 **MS. HOFFMAN:** Yep, we're fine with that.

16 **THE COURT:** All right. The other thing, unless it's
17 buried in here somewhere, I may have lost the -- or misplaced
18 the redacted version of the indictment, the extra -- at some
19 point before we --

20 **MS. PERRY:** I can reprint it.

21 **THE COURT:** You can reprint it.

22 Any comments? Anything else anybody wants to say?

23 **MS. AMATO:** Just in terms of scheduling, then, so
24 we'll go, first, with one more closing argument. Do we take a
25 break at that point? Or do we wait until the Government

1 finishes their rebuttal? Or how does Your Honor want to handle
2 the morning in terms of . . .

3 **THE COURT:** How long do you think you're going to be?

4 **MR. HAZLEHURST:** Probably 45, 50 minutes, Your Honor.

5 **THE COURT:** Okay.

6 **MR. HAZLEHURST:** Depends on how verbose I am.

7 **THE COURT:** I mean, I'd just as soon we go directly
8 from there into rebuttal.

9 But then I would have -- I guess I'd have to take a
10 break at some point because I have a few more pages and words
11 afterwards.

12 **MS. HOFFMAN:** I think mine is about an hour and a
13 half.

14 **THE COURT:** Hour and a half, okay.

15 **MR. HAZLEHURST:** Your Honor, just in regard to
16 Mr. Davis, obviously, I have no ability to -- no fact-finding
17 ability to say exactly what happened. And obviously at this
18 point, I have to rely on the marshals.

19 Mr. Davis, one, is concerned that he will not be able
20 to write, given the restraints on his wrists. And the only way
21 he would be able to write would be if he essentially had to
22 expose those restraints.

23 And that's my greatest concern because I don't want
24 the jury, after having seen him throughout the trial writing,
25 taking notes, having his hands and wrists free, that he is now

1 in restraints.

2 So I'm not sure what other alternative the Court could
3 possibly have.

4 But, again, I want to state Mr. Davis's concern on the
5 record.

6 And my greater concern, obviously, is that the
7 restraints do become visible.

8 **THE COURT:** Whether the restraints become visible is
9 entirely under Mr. Davis's control.

10 I strongly urge him -- and I am sure you feel the same
11 way -- that he not do anything to make those restraints
12 visible --

13 **MR. HAZLEHURST:** I agree.

14 **THE COURT:** -- to the jury.

15 I think the fact that he's not writing can easily be
16 explained by the fact the evidence is done. He's listening to
17 you argue.

18 And there's not -- you know, it's not as though he
19 needs to give you advice on questions or anything like that.
20 You're arguing.

21 So I think it is in his interest not to write and not
22 to expose those restraints to the jury. And I certainly hope
23 he sees it that way.

24 But I have no alternative to the restraints, given
25 what the marshals found this morning.

1 **MR. HAZLEHURST:** I understand.

2 **THE COURT:** Okay. All right. Then I think we're
3 ready to bring in the jury.

4 **MR. HAZLEHURST:** Thank you.

5 **MS. HOFFMAN:** Thanks.)

6 (Bench conference concluded.)

7 **MR. HAZLEHURST:** Your Honor. Mr. Davis did not have a
8 headset during that last bench conference.

9 **THE COURT:** Oh.

10 **MR. HAZLEHURST:** So he was not aware of the Court's
11 comments.

12 **THE COURT:** If you would like to come back up, I'd be
13 happy to repeat it --

14 **MR. HAZLEHURST:** I would, Your Honor.

15 **THE COURT:** -- as soon as he has that headset.

16 (Jury entered the courtroom at 9:47 a.m.)

17 **MR. HAZLEHURST:** Your Honor, if we may approach?

18 **THE COURT:** Yes.

19 (Bench conference on the record:

20 **THE COURT:** I'm going to repeat the matters that I
21 mentioned earlier, not realizing that Mr. Davis did not have
22 his headset.

23 First of all, I was advised by the marshals this
24 morning that they found two razor blades in Mr. Davis's shoes
25 when he was searched on his arrival to the courthouse today.

1 For that reason, they requested -- and I granted --
2 that he be placed in three-piece restraints, essentially, that
3 his hands be restrained.

4 The marshals also have provided him a shirt or
5 sweatshirt such that if he keeps his hands in his pockets, the
6 jury will not be able to see the restraints.

7 Mr. Hazlehurst expressed a concern on behalf of
8 Mr. Davis that he preferred to be able to write and be taking
9 notes as he has during the other parts of the trial.

10 I have indicated that, unfortunately, at this point
11 that is simply not an option; that, however, I did not think it
12 would appear out of the ordinary that he not be taking notes
13 now because the evidence is done.

14 There are no questions to be asked of witnesses. It
15 is Mr. Hazlehurst giving his argument, which he will do
16 without, in the midst of it, consulting with his client.

17 So it's perfectly normal that he would not be taking
18 notes at this point.

19 I also strongly urged that Mr. Davis would see it in
20 his interest not to expose to the jury that he, in fact, has
21 restraints on his hands because he hasn't throughout the trial.
22 There's no reason the jury should know that now unless
23 Mr. Davis chooses to make that fact obvious, which I would
24 strongly advise him not to.

25 I assume his counsel feels the same way.

1 The only other thing I mentioned on the record is that
2 I intended to advise the jury of Mr. Davis's successful
3 recovery from surgery, just to emphasize to them that
4 Mr. Frazier is not here because -- that we told the truth,
5 essentially, that Mr. Davis's condition, medical condition, is
6 the reason that Mr. Frazier is not here.

7 Anything else?

8 **MR. HAZLEHURST:** No, Your Honor. Thank you.

9 **MS. HOFFMAN:** Thank you.)

10 (Bench conference concluded.)

11 **THE COURT:** Sorry, ladies and gentlemen. And welcome
12 back.

13 All right. In just a moment, we will be proceeding
14 with the continuation of the argument.

15 I believe we'll have Mr. Hazlehurst, and then there
16 will be a Government rebuttal.

17 So whenever you're ready.

18 **MR. HAZLEHURST:** Your Honor, if I may, just one
19 moment?

20 **THE COURT:** Of course.

21 (The defendant conferred with counsel.)

22 **MR. HAZLEHURST:** Thank you, Your Honor.

23 **THE COURT:** Sure.

24 **MR. HAZLEHURST:** Ms. Moyé, I will switch on the
25 microphone.

1 **THE CLERK:** Thank you.

2 **MR. HAZLEHURST:** Shakeen Davis did not join and did
3 not associate himself with Murdaland Mafia Piru.

4 Shakeen Davis did not join or associate himself with a
5 racketeering conspiracy charged in Count 1 of the indictment.

6 And Shakeen Davis did not join or associate himself
7 with the drug-trafficking conspiracy charged in Count 2 of the
8 indictment.

9 And the United States Government cannot and did not
10 prove that he did.

11 Good morning again, ladies and gentlemen. I think you
12 probably know who I am by now, but, again, my name is
13 Paul Hazlehurst, and I represent Shakeen Davis.

14 Now, those assertions may seem bold after we've been
15 here for what seems like over a year, but really is about -- I
16 think now this is the seventh week.

17 We've heard from scores of witnesses. You've seen
18 what -- to my mind, hundreds of exhibits.

19 But those statements are accurate because trials
20 ultimately aren't about the quantity of evidence; they're about
21 the quality of the evidence.

22 And even though you go through week after week of
23 trial and you hear from witness after witness after witness and
24 see exhibit upon exhibit upon exhibit, trials aren't about:
25 Well, it must be that the defendant is guilty; it has to be

1 that the defendant is guilty; how could it not be that a
2 defendant is guilty?

3 Trials are about proof, and proof beyond a reasonable
4 doubt.

5 When we began this case, I told you that when the
6 Government elects to accuse someone of committing a crime or
7 crimes and hails them into a courtroom and puts them in a chair
8 like Shakeen Davis is sitting in today (indicating), it makes a
9 promise to all of you.

10 It makes a promise that it can prove that that person
11 (indicating) committed those crimes beyond a reasonable doubt
12 and that it is the Government and only the Government that has
13 an obligation to, one, produce evidence and to prove those
14 charges.

15 Now, you've heard other defense counsel comment on
16 that. You've actually heard Judge Blake reiterate that those
17 burdens never shift. They're the sole responsibility of the
18 United States Government (indicating).

19 Now, to me, when I think of that obligation the
20 Government has, I envision a bridge, a bridge that has to be
21 constructed from mere accusation on one side across a very deep
22 and a very wide divide to beyond reasonable doubt on the other
23 side.

24 And that bridge can't be based on speculation, can't
25 be based on insinuation, can't be based on assumption. It's

1 got to be based on reliable evidence, truthful testimony.

2 Can't have holes. Can't have missing pieces.

3 It's got to be strong enough based on worthy
4 foundations because, ultimately, ladies and gentlemen, what the
5 Government's asking you to do is to have that bridge bear the
6 burden and the weight of a man's life.

7 Now, the Government sought to prove that Mr. Davis was
8 associated with MMP through four different means:

9 One, cooperating witnesses;

10 Two, intercepted and recorded telephone calls;

11 Three, seized cell phones;

12 And, four, social media.

13 Let's talk, first, a little bit about cooperating
14 witnesses.

15 Now, I don't think that my profession is the only
16 profession that suffers this. But lawyers, I believe, are
17 immune sometimes to the idea that the terms that we use in
18 everyday life are accessible to people who walk into courtrooms
19 for the first time.

20 And we talked about -- a lot about cooperating
21 witnesses in this case. And it sounds so helpful. It's a
22 cooperating witness. It sounds like it's somebody who's going
23 to help an old lady across the street.

24 But, ladies and gentlemen, the people that we're
25 talking about when we're talking about cooperating witnesses

1 are not solid citizens.

2 You have seen, I'm sure, in airports, train stations
3 the posters that say, If you see something, say something. If
4 you see something that's suspicious, if you see a crime,
5 basically report it.

6 But these are not the people who are going to go up
7 and tap a police officer on the shoulder and say, I just saw
8 something.

9 In fact, we've heard in this case that they didn't do
10 that on several occasions.

11 These are the people who wait to see what's in it for
12 them before they say anything.

13 Now, Ms. Perry made a point during her argument that
14 when witnesses have a common piece of information they're
15 trying to get across, if they use different words to express
16 it, it's a hallmark of the truth because when things sound
17 exactly the same, looks like it's been rehearsed. It doesn't
18 sound like it's the truth.

19 Well, using that criterion, you know that at least on
20 one point, all of these witnesses were rehearsed because each
21 one of them, each one of these cooperating witnesses, when they
22 got on the witness stand, said uniformly, My job is to tell the
23 truth.

24 And any reduction in my sentence is up to the judge
25 (indicating).

1 Well, we found out that's not completely true because
2 for a witness to even have a chance to get a reduction in their
3 sentence, the Government, Government counsel, has got to
4 approve what they say. It's essentially got to vouch for the
5 witness and say they provided substantial assistance. They
6 cooperated with us.

7 And remember, we talked about this. In fact, I think
8 I asked several witnesses. Cooperating witnesses aren't
9 cooperating with anybody who's on this side of the courtroom
10 (indicating). Cooperating witnesses are cooperating with only
11 people on this side of the courtroom (indicating).

12 And so it's not to say that cooperating witnesses
13 can't tell the truth; but their clear incentive is to try and
14 get home sooner, to take a sentence that may be ten years or
15 longer and reduce it. And the only means for them to be able
16 to do that is to help the Government.

17 And so that means, ladies and gentlemen, that the
18 Government's got to say, Yeah, you helped. You helped us.

19 And though that, again, cooperating witnesses can tell
20 the truth, that's a very powerful incentive to make sure that
21 whatever you say -- and whatever you have said before you ever
22 come into this courtroom -- conforms to the Government's
23 version of the facts.

24 Now, Ms. Perry told you that all of the cooperating
25 witnesses agreed that Mr. Davis was a member of MMP.

1 That's not really true. There were only three
2 cooperating witnesses who said that Mr. Davis was a member of
3 MMP: William Banks, Jay Greer, and Malcolm -- not Melvin --
4 Malcolm Lashley.

5 But I submit to you, ladies and gentlemen, that none
6 of those assertions that those witnesses made can really
7 withstand scrutiny.

8 I'll start with William Banks.

9 If you look beneath the bridge that the Government is
10 building here, the main pillar is William Banks. And, quite
11 frankly, there could be no more suspect foundation for a
12 bridge.

13 When we began, I think I described Mr. Banks to you
14 like a pirate of old. And what I meant was -- and mainly, my
15 knowledge of pirates comes from old pirate movies. But the
16 trick was that pirates would keep a flag of every nation
17 onboard. And when they were threatened by somebody they
18 thought could do them harm, they would strike their flag and
19 run up the flag that was friendly to whoever was threatening
20 them because at that point they would be friends. They could
21 either run away; they could bide for time; they could make a
22 deal.

23 But it kept them from being destroyed.

24 Now, I stand by that reference to Mr. Banks because I
25 think he's -- he proved it himself. I think the term that he

1 used when he was testifying was "I was a double agent."

2 The question was: Double agent for which side?

3 Because he played both sides against the middle, and he did it
4 more than once.

5 Now, Mr. Banks got in trouble in the state for almost
6 killing a man and his child. But he wrote what appeared to be
7 a very heartfelt letter saying that he'd seen the error of his
8 ways; that he was going to convert; he was going to do the
9 right thing; he was going to help stop crime, not be part of
10 crime.

11 Ultimately, he was released; and he immediately, upon
12 release, became a paid informant for the Baltimore City Police
13 Department.

14 But we know, basically from Mr. Banks' own words, that
15 he almost immediately went back and started committing crimes
16 again.

17 And one of the crimes that he ultimately committed you
18 saw played out again and again and again on video, the shooting
19 of Samartine Hill.

20 Ladies and gentlemen, he went up to somebody and shot
21 them point-blank in the head.

22 Quite frankly, I've never seen anything more
23 disturbing in a courtroom. You had to see it again and again
24 and again.

25 But then he lied about committing that crime. Never

1 disclosed it to the Baltimore City Police; we know that.

2 He also never disclosed it to the ATF, Alcohol,
3 Tobacco and Firearms, that Agent Aanonsen is part of,
4 Agent Moore is part of, because he went from being an informant
5 for the Baltimore City Police to the ATF.

6 He lied about it. He lied about it. In fact, he
7 tried to say that someone else was responsible for committing
8 that homicide.

9 And then he finally got caught, and he ends up back
10 here sitting in that chair (indicating).

11 Now, cooperating witnesses aren't that unusual in
12 federal court. They're a part of how the federal government
13 makes its cases.

14 And I think even they would describe that as making a
15 deal with the devil.

16 But the Government in this case did not just make a
17 deal with the devil in regard to Mr. Banks; essentially made
18 him, again, the primary foundation of its case.

19 He's the witness that the Government used to define
20 all terms for all other witnesses.

21 He is the witness that the Government used to describe
22 MMP practices, things that would define who was in MMP. He's
23 the one who described, for instance, the handshake that
24 supposedly was used.

25 And, ladies and gentlemen, it's no mistake -- and if

1 you've listened closely, and I know you have -- that the
2 Government never sought to ask another cooperating witness to
3 describe any of the things that Mr. Banks did.

4 No one else ever said, when they talked about a
5 handshake, what it looked like. Only Mr. Banks did.

6 And just so you know, maybe it's a little insider
7 information, it's a maxim that all attorneys follow or should
8 follow, that once you get the answer that you want from a
9 witness, you don't go and ask that same witness the same
10 question again and you don't ask another witness the same
11 question 'cause you might get a different answer.

12 Now, Mr. Banks, with all his obvious sins -- and maybe
13 some we don't know about -- again, was the Government's primary
14 witness. He's the one, the cooperating witness they relied
15 upon the most.

16 Now, Mr. Banks said he was a member of MMP. He
17 transitioned while he was in the state correctional system from
18 one branch of the Bloods into MMP, said he'd put in work while
19 he was there. Putting in work meant stabbing people. So he
20 was acceptable to MMP because he had already proved himself as
21 a member of another Bloods sect.

22 He was asked to describe the common characteristics of
23 MMP gang members. He said, at least in part, they wore the
24 color burgundy -- not red; he specified burgundy.

25 They had a handshake. And if you recall, ladies and

1 gentlemen, there was a slideshow, again, of this handshake that
2 involved the interlocking of pinkies of one hand and then the
3 interlocking of the thumbs; that they had tattoos of M's or
4 lightning bolts; and that they threw signs, M signs, something,
5 I think, like that (indicating). Doesn't even really describe
6 it.

7 He was asked twice whether Mr. Davis was a member of
8 MMP.

9 On the first day of his testimony, he said that
10 Mr. Davis was a rapper and he was a member of MMP. He never
11 said why or how he knew that Mr. Davis was a member. He just
12 said he was.

13 But then he was asked to view a video of Mr. Davis --
14 and, hopefully, this will help you remember that specific
15 video.

16 There were a couple of what I call sideways videos in
17 this case where the Government, through -- and I'm not going to
18 condemn their technological abilities because it can happen to
19 all of us, but this video was shown sideways.

20 And it was Mr. Davis walking into, essentially, the
21 lobby area of the BP gas station and greeting several other
22 people who were in that area. And he shook their hands.

23 And the handshake he used was five fingers
24 (indicating) and then two fingers (indicating).

25 And Mr. Banks identified that, not as the MMP

1 handshake, but something to do with something called the
2 5200 boys.

3 On the second day he testified -- you remember there
4 were two -- he was asked point-blank by the Government: And
5 was Creams a member of MMP?

6 Remember, Creams is a nickname that's associated by
7 witnesses with Mr. Davis (indicating).

8 Now, the Government broke the rule in that situation.
9 And what happened was Mr. Banks said, No. He's a 5200 boy,
10 which he defined to be people from the neighborhood, local kids
11 from the 5200 block of Windsor Mill Road.

12 And he said that some -- but not all -- of those
13 people were associated with MMP. And he didn't specify whether
14 at that point Mr. Davis was or wasn't.

15 Now, Mr. Banks was at best contradictory about whether
16 Mr. Davis was a member of MMP or not. And Mr. Greer, quite
17 frankly, was no more convincing.

18 Mr. Greer said that he himself was not an MMP member,
19 though there was some dispute about that later on because
20 another cooperating witness, Derran Hankins, said he was.

21 Mr. Greer said that, again, Mr. Davis (indicating) was
22 a rapper; he made music. And he came to the studio where
23 Mr. Greer worked.

24 And if you recall, Mr. Greer's sort of chronology, he
25 began working at a music studio where some of the people that

1 you've heard about in this case would come to make music.

2 He said that Mr. Davis hung around with kids his own
3 age.

4 And, ladies and gentlemen, I will bring this back up
5 again; but if you look and if you've seen, you know that
6 Mr. Davis is 24 years old right now. He was arrested in 2012.
7 And he was, I believe, 17 at that point, maybe 18. So -- but I
8 think -- but right now he's 24. He's a relatively young man
9 compared to the other people who are sitting on that side of
10 the courtroom (indicating).

11 Mr. Greer said he knew that Mr. Davis was MMP because
12 he saw him doing a handshake, but he was never asked what that
13 handshake was. And he didn't, of his own volition, elaborate
14 on what that handshake was.

15 He also said he knew because of Mr. Davis's rap songs.
16 But he never described them, and we never heard them. So we
17 don't know exactly what they were about.

18 Finally, he said that Mr. Davis made M signs. Again,
19 maybe like this (indicating). I can't do the other one, I'm
20 sorry. My fingers don't work that well. But we don't know
21 exactly what he was describing.

22 Now, finally, we get to Malcolm Lashley. Mr. Lashley
23 said that he went to the Government. He actually pursued the
24 Government to be able to cooperate. He was that eager to be
25 able to try and reduce the sentence that he ultimately would

1 have to serve.

2 And you remember, Mr. Lashley pleaded guilty to two
3 counts: one racketeering conspiracy; the other was a
4 drug-trafficking conspiracy that carried for him a
5 mandatory-minimum sentence of ten years.

6 Mr. Lashley said he knew that people were in MMP from
7 seeing them do handshakes and from their tattoos. He never
8 said he saw Mr. Davis performing any handshake.

9 We certainly know that he never saw a tattoo on
10 Mr. Davis.

11 He said he knew that Mr. Davis was MMP from just being
12 in the neighborhood with him. The Government didn't ask any
13 further questions, and Mr. Lashley didn't elaborate on that
14 point. We were moving fast through a lot of defendants. There
15 was no more information.

16 Now, no other cooperating witnesses identified
17 Mr. Davis as being MMP. And we know that none of the
18 cooperating witnesses that did really provided any meaningful
19 detail to support their testimony.

20 We also know that Mr. Banks, the uber-cooperator in
21 this case, contradicted himself on the point.

22 But that's not where the Government left the issue.
23 It expended great effort to prove that Mr. Davis was MMP by
24 putting on evidence that he had shot at a car on May 30th,
25 2015, allegedly as an act of retaliation related to the gang.

1 To do so, it relied heavily, again, on two cooperating
2 witnesses, Mr. Banks and Mr. Lashley, but also the fact that
3 Mr. Davis was arrested ultimately for possessing a rifle,
4 what's been described as an assault rifle.

5 Now, we know that on April 26th, 2016, Mr. Davis was
6 stopped for speeding. Events occurred and ultimately he was
7 arrested. And in his possession he was found to have a
8 handgun, and in the trunk of his car there was an AR-15.

9 Now, I wish that were not so. I wish I could stand
10 before you today and say that didn't happen or here's a reason
11 it didn't happen or that Mr. Davis really didn't possess it.
12 But I can't. That occurred.

13 But as to that weapon and the May 30th, 2015 shooting,
14 the takeaway is this: that that rifle that was seized on -- in
15 April of 2016 was submitted for ballistics testing, and that
16 examination showed that there was no match.

17 There's no evidence in this case that the gun, that
18 AR-15 that Mr. Davis was found to be in possession of in
19 April 2016, matched any of those shell casings that
20 Detective Carvell described as being recovered at the scene of
21 that May 30th, 2015 shooting.

22 So though there is an insinuation that Mr. Davis had
23 to be responsible for that May 30th shooting because he was
24 stopped with an AR-15 and because there was apparently some
25 talk around the neighborhood that he carried AR-15s, the one

1 AR-15 we know he possessed, the one and only one he was ever
2 found to be in possession of, did not match that shooting.

3 Once again, though, the Government turned to Mr. Banks
4 and Mr. Lashley. And I would submit to you, ladies and
5 gentlemen, they provide no more convincing testimony in this
6 context than they did in regard to whether Mr. Davis is MMP or
7 not.

8 Mr. Banks admitted that he had not seen any shooting,
9 but he heard about it later.

10 Mr. Lashley said he had seen the shooting; but if you
11 look at his testimony and the exhibits that the Government used
12 in this case, you can see that there is absolutely no way he
13 could have seen what he said he saw.

14 Now, the funny thing about the truth is it's really
15 easy. When you see something -- especially something that is
16 memorable or unusual -- it's stuck in your brain. It's easy to
17 recall. It is what it is. It doesn't evolve. Details don't
18 get added and subtracted. Things don't change about the truth.

19 But that's certainly not true about the stories that
20 were told about Mr. Banks and Mr. Lashley, and chronologies
21 really are helpful for both witnesses.

22 Remember, the shooting in the car occurred on
23 May 30th, 2015. Mr. Banks at that time was two years into his
24 stint as a paid informant for the Baltimore City Police
25 Department.

1 He had a police handler, someone who had to sign off
2 on him providing information for which he was paid.

3 And I don't know if you recall -- I hope you do -- but
4 we went through a series -- I went through a series of
5 Mr. Banks going through those particular vouchers that he had
6 to sign. And then he would be paid, and he would be paid by
7 his Baltimore City Police detective handler.

8 Now, if you also recall, Mr. Banks said, I had lost my
9 legitimate job.

10 I don't know how many legitimate jobs he had, but he
11 lost that one. I think it was in a meatpacking plant. And he
12 was depending on police payments to basically live.

13 So he had every reason, every reason to want to give
14 as much information as he could, as complete information as he
15 could to the police, more than I would say than any average
16 citizen.

17 Now, hopefully, we would all report a crime if we saw
18 it. Mr. Banks might not have. But Mr. Banks was getting paid.
19 That was his livelihood.

20 Now, I asked him about whether he had provided that
21 information about this shooting to his police handler. And
22 initially when he testified, he said he couldn't remember
23 whether he ever told the handler. And then he said, Yeah,
24 yeah, I -- I did. I did.

25 So if you take him at his word when he testified, he

1 would have transmitted information about an attempt to kill two
2 people with an assault rifle in Baltimore City where he
3 supposedly knew the person who was responsible for that act.

4 And I know that you all know that the police would
5 probably be very interested in that sort of information.

6 But there was no evidence that Mr. Davis was ever
7 investigated. There's no evidence that he was ever arrested.
8 No evidence that he was ever prosecuted in the state for that
9 incident.

10 Now, that suggests that Mr. Banks may not have been
11 telling the truth about what he said; that he may not have told
12 his handler about this because maybe he really didn't know
13 anything to tell.

14 But there is an easy, easy way that the Government
15 could have confirmed his testimony. There -- Mr. Banks was
16 telling the truth -- there is a Baltimore City Police detective
17 who was his handler that the Government could have called, put
18 on the stand simply to say, Yes, he told me about that. Yeah.
19 We didn't go after it. We didn't do something.

20 They maybe had an explanation for it. I don't know.
21 But you never heard from that witness who could have easily
22 confirmed that testimony.

23 You could have taken somebody who's a sworn
24 law enforcement officer and had him buttress the testimony of
25 somebody who's basically over time a sworn liar.

1 So you're stuck with Mr. Banks' bald assertion that,
2 yeah, I told my handler about it, but we don't really know the
3 truth of that.

4 What we do know is that Mr. Banks -- again, who
5 transitioned from being a Baltimore City Police informant to
6 being an ATF informant -- was ultimately arrested on
7 August 26th, 2016, after the ATF finally figured out that he
8 was the person who shot Samartine Hill; figured out that he'd
9 been lying all along; figured out that he'd actually wrongfully
10 accused someone else of doing it to hide his own tracks.

11 When I talked to him in cross-examination, I said,
12 That must have been the worst day of your life.

13 And he didn't disagree with me.

14 And I said, You know, you had a yard sale that day,
15 didn't you? You cleared out the closets.

16 Because at that point it was a custodial
17 interrogation. It wasn't a meeting. It wasn't what we've
18 called proffers. It was a meeting with somebody who was then
19 under arrest, and they put it on video.

20 That's not the normal course for proffers, ladies and
21 gentlemen. They were basically recording it because they knew
22 they couldn't trust what he said, and they wanted to have an
23 independent record that didn't depend on anybody's notes.

24 Remember what he said. He goes, I told them
25 everything and then some, because at that point he just struck

1 his MMP flag; the Government flag was going back up the
2 flagpole. He just switched sides again because he was in
3 trouble, not 'cause he had best intentions, not because he's an
4 angel, not because he wanted to be a good person or a good
5 citizen. Because he felt trapped and now was the time to turn
6 things around.

7 Again, huge incentive, huge incentive to try to get on
8 the right side of this thing, the right side for him.

9 He talked about everybody. I think he may have
10 mentioned everybody in this courtroom and then some.

11 But the one person, at least that I know he didn't
12 talk about in that postarrest statement, was Shakeen Davis. He
13 never said anything about that May two thousand -- May 2015
14 shooting.

15 The first time we know on the record that
16 William Banks said Shakeen Davis was responsible for that
17 shooting was when he appeared before the grand jury as a
18 cooperating witness on September 15th, 2016.

19 But when he testified, he said, Mr. Davis told me
20 about it.

21 Mentioned no other name.

22 That didn't come until May 17th, 2017. It was two
23 years after this incident when, for the first time,
24 William Banks said that Kenyon Patterson, known to him as
25 Konan, told him about the shooting with Mr. Davis standing

1 there.

2 Mr. Banks acknowledged that on cross-examination, that
3 it took him two years to come up with that name.

4 But, again, ladies and gentlemen, the Government
5 didn't just have to rely on Mr. Banks for this point.

6 If what he said was true, there is another witness
7 that they could have brought in, they could have put in that
8 chair. It's Kenyon Patterson.

9 Kenyon Patterson is not a defendant in this case.
10 Kenyon Patterson could be compelled to come in here and
11 testify, but you never saw him.

12 And, again, all he would have had to say is, Yeah, I
13 was there that day. Yeah, Mr. Banks was there too.

14 But they didn't do it.

15 So what you're left to rely on is the pirate,
16 William Banks. And that is a foundation that, quite frankly,
17 just will not bear weight.

18 Now, look at Mr. Lashley. The facts have really
19 evolved for him too.

20 Again, Mr. Lashley came to the Government, said, I
21 want to cooperate.

22 He pursued them. They weren't pursuing him, according
23 to his testimony.

24 He does face sentencing on two charges. One is a
25 ten-year, mandatory-minimum sentence.

1 And the only way out from that, again, it's not just
2 by telling the truth and hoping that the judge will change it.
3 He's got to tell a story. And the Government has got to say,
4 Yes, that story helped us.

5 And then, and only then, if the Government says,
6 "Yeah, you helped us," does the judge have any option to
7 consider reducing that sentence.

8 To be honest with you, ladies and gentlemen -- and I
9 don't mean to be disrespectful about Mr. Lashley -- Mr. Lashley
10 didn't, quite frankly, seem to be all that mentally acute. He
11 had difficulty with questions. A lot of things had to be
12 repeated.

13 Now, he met with government agents on September 28th,
14 2018. So the shooting happened May of 2015. Mr. Lashley first
15 met with government agents September of 2018, and not once is
16 there anything that we know of that he ever mentioned this to
17 anybody else. Never went to a police officer. Never said
18 anything to anybody, said, I know this.

19 So we're talking three years afterwards. And when he
20 talked about it with the agents, he said, yeah, he saw the
21 shooting, but he couldn't remember whether it happened in 2015
22 or 2016. Couldn't remember the year.

23 He said he was standing across the street from the BP
24 station with a girl when it happened.

25 Now, Mr. Lashley never testified before the

1 grand jury. He never testified under oath until he was sitting
2 in this courtroom.

3 And when he testified here, again, things evolved. He
4 said he had seen Mr. Davis shooting from the passenger seat of
5 a car. Didn't otherwise describe the car, didn't say what
6 color it was, what make it was, nothing like that.

7 He also didn't mention any girl.

8 But for the first time when he was sitting here
9 (indicating), he brought up someone named Kane. And he said,
10 later on the day of that incident, back in May of 2015, that
11 Kane pretty much told me what happened.

12 On cross-examination I asked Mr. Lashley, Why didn't
13 you mention the girl when you were on the witness stand?

14 He said, Well, you know what? They -- meaning
15 Government counsel -- didn't ask.

16 Then I asked him whether he had provided the name of
17 the girl he'd said he'd been with on the day of that shooting
18 when he met with government agents in September of 2018.

19 He said, Nope, no, I didn't. Said the agents didn't
20 ask for that information.

21 Also admitted that when he met with the agents, he had
22 not mentioned Kane.

23 Now, again, let's think about incentives. This is a
24 man who's looking, at the very least, at a ten-year
25 mandatory-minimum sentence. He has come up to the Government

1 and said, I want to help you. I want to be on your side
2 because he knows and he's admitted: That's the way I get home
3 faster.

4 You would think that had the information that he had
5 was true, if it was true, he would have been pushing it on the
6 Government agents.

7 He would have been saying, Listen, here's who she is.
8 Here's where she lives. Here's the numbers I had for her.
9 She'll back up everything that I say.

10 But, again, he said they didn't ask.

11 Well, if the Government didn't ask, then shame on the
12 Government because, again, instead of having to rely on
13 Malcolm Lashley, the cooperator, if what Mr. Lashley was saying
14 was true, you could have had a witness on the witness stand who
15 was -- again, using a term we kind of use around here because
16 it helps differentiate -- a civilian witness, somebody who
17 doesn't have something they're trying to work off, somebody who
18 is not trying to help one side or the other but is simply
19 testifying to facts as they know them.

20 And that person's not here.

21 The Government could also have called Kane as a
22 witness. Again, Kane's not charged in this case. They can put
23 him on the witness stand to confirm, at the very least, what
24 Mr. Lashley had said.

25 Instead, what you end up with is one witness, one

1 cooperating witness whose story has evolved in a way that is
2 inconsistent with it being the truth.

3 Now, there's an additional reason to believe that
4 Mr. Lashley wasn't telling the truth. I gave it a little bit
5 of foreshadowing because, quite frankly, ladies and gentlemen,
6 there's absolutely no way he could have seen what he said he
7 saw on the day of that shooting.

8 If you recall, when Mr. Lashley was being asked
9 questions by Government counsel about the shooting, Ms. Perry
10 asked him to refer to Government's Exhibit MAP-34. And she
11 asked him to indicate where he was when he had observed what he
12 said he had observed.

13 And I think he may have surprised Ms. Perry a little
14 bit because, if you'll recall, she goes, Oh, looks like you
15 already did.

16 And the mark that Mr. Lashley made was not
17 somewhere -- if you can follow my mouse. I hope you can. This
18 is about the extent of my technological abilities -- wasn't
19 alongside Windsor Mill Road (indicating). It wasn't alongside
20 North Forest Park Avenue (indicating). It was on the infield
21 of the baseball diamond where the mouse pointer is now
22 (indicating).

23 Well, the car that was the target of the shooting
24 ended up, if you can follow the mouse pointer again, here
25 (indicating). We know that because the Government also showed

1 you another exhibit, Crime Scene 3-3.

2 You can see, ladies and gentlemen, that, one, if you
3 go back to MAP-34, that between -- and, again, there's no scale
4 on this map. You can't -- there's nothing that says, Well,
5 this is what the distance is in feet or yards or miles.

6 But you can see there's a fairly significant
7 different -- or distance between the infield of the baseball
8 diamond and where the car ended up.

9 In between where Mr. Lashley said he was and where the
10 car ended up, there is a stand of trees; there are several
11 lanes of traffic.

12 And if you look at CS-3-3, you'll also notice that the
13 car is actually downhill. It's not elevated. It's not even at
14 the same level. It's downhill from the other side of the
15 street.

16 You see where the BP station is (indicating)? You see
17 where the car is (indicating)? These are the trees
18 (indicating).

19 And, ladies and gentlemen, look. Look at those trees.
20 Look at those cars. And, again, looking downhill.

21 Now, you also heard Mr. Lashley say that Mr. Davis was
22 shooting from the passenger seat of a car. So that means,
23 ladies and gentlemen, if you look -- and, again, I wasn't
24 there. But in looking at those cones that Detective Carvell
25 said were shell casings that were recovered after the incident,

1 they were expelled alongside and then moving up the hill from
2 the car that was shot.

3 The passenger side of a vehicle that did that would be
4 closest to the car that was shot.

5 So basically, what you're looking at is a situation
6 where to see what he said he saw, Mr. Lashley would have had to
7 have seen a great distance, through the trees, across several
8 lanes of traffic, downhill, and essentially through an
9 automobile.

10 Not even Arlen Specter and the Warren Commission could
11 have explained that.

12 Now, the Government also made one other argument to
13 support its theory that Mr. Davis was responsible for the
14 May 30th shooting. It relies on testimony from Mr. Banks that
15 Mr. Davis changed the color of his car, which he believed to be
16 an Acura, after the incident, to evade detection.

17 And Mr. Banks testified that after this incident,
18 according to his recollection, that Mr. Davis had all the paint
19 scraped off his car.

20 I'm not sure I've ever seen a car that looked like
21 that. He never said it was painted another color. He simply
22 said he had all the paint scraped off it.

23 Yet the Government played a recorded jail call from
24 Sydni Frazier to Mr. Davis. That call, J-17, was on July 1st
25 of 2015, a month after the incident. And it makes reference to

1 Mr. Frazier saying [reading]: What color -- and I apologize
2 for language -- what color your shit is.

3 And Mr. Davis responds [reading]: I did some dumb
4 stuff out there. That on the green tip now.

5 Now, I submit to you, ladies and gentlemen, that that
6 is a reference to drugs and selling drugs and the color,
7 potentially, of what Mr. Davis may have been distributing his
8 drugs in.

9 The Government, on the other hand, insinuates that
10 that was a reference to the color, the new color of the car.

11 There's nothing that supports that in regard to other
12 testimony.

13 And, in fact, the Government really contradicts itself
14 because in an effort to prove that Mr. Davis was selling drugs,
15 it also played another call, TT-3-3533, in which it alleged
16 that Mr. Davis and Jamal Lockley were having a conversation
17 about drugs.

18 And that highlighted portion -- and, again, this shows
19 an unidentified male. The person who supposedly identified
20 this as Mr. Davis was Malcolm Lashley, ultimately -- said
21 [reading]: All right. Yeah, um, I'm trying, um, to get with
22 you on sister tip.

23 And the Government used that call, using that word, as
24 evidence that Mr. Davis was dealing drugs.

25 So not only does the Government not have supporting

1 evidence to show that the first call about the green tip was in
2 reference to a car, it really contradicts itself by, again,
3 giving you evidence of another call using the same word as a
4 variable refers to drugs.

5 Ultimately, ladies and gentlemen, you know these
6 things about Shakeen Davis and MMP.

7 There is no evidence that he was ever initiated into
8 any gang, none whatsoever. We heard that there were initiation
9 processes, but nothing we've heard about, at least in regard to
10 Mr. Davis.

11 There is no evidence that he ever attended any MMP
12 meeting -- though, according to Mr. Banks, meetings were held.

13 According to Jay Greer, he got one -- once got notice
14 through a misdelivered text message from Tiffany Bailey that an
15 MMP meeting was being held. Mr. Davis was never alleged to be
16 at any MMP meeting.

17 He has no tattoos of any kind. You know and have seen
18 the stipulation entered into with the Government that Mr. Davis
19 does not have any tattoos, much less anything to do with MMP.

20 He's never been found to be in possession of any MMP
21 paperwork. And there's been a lot of that floating around
22 through this case.

23 More important, he is never mentioned in any MMP
24 paperwork. There are other people who are, and he's not
25 mentioned in anything that would be potentially construed as an

1 alleged screenplay. He's just not there.

2 The rest of the Government's evidence does not
3 establish ties between Mr. Davis and MMP.

4 And before I go into that in some greater detail,
5 ladies and gentlemen, I do want you to consider this: MMP came
6 to live in Mr. Davis's neighborhood, the place where he grew
7 up, the place where he came of age, if you will. Again, when
8 you first encounter him in 2012, he's not even 18 yet. They
9 came to live there. He had no choice over that.

10 The people who comprised MMP, the people who were part
11 of it, they were the ones who populated the streets around the
12 places that Mr. Davis lived.

13 If you look at MAP-34 again, ladies and gentlemen,
14 we've talked in great detail throughout this case about these
15 neighborhoods. We've heard about apartment complexes. We've
16 heard about houses. We've heard about different streets.

17 But the only commercial area, the only commercial area
18 in this surrounding area is that BP station, that Subway, that
19 little market. That's it.

20 The people who were in MMP had some money, but they
21 had some apparent power.

22 So it's understandable, one, because they were around
23 that neighborhood, that they're going to show up in pictures.
24 People take pictures.

25 I don't do social media, ladies and gentlemen. I

1 don't do Instagram. I don't do Facebook. I don't do any of
2 that stuff.

3 But people do, and they put pictures out there of
4 people who are in their lives, for better, for worse. Whether
5 they know 'em that well or not, take candid photos; you post
6 'em.

7 It's also understandable because these people from MMP
8 had some money and some power in the neighborhood -- and,
9 again, that Mr. Davis being a young person and relatively
10 younger than anybody else that's involved in this case, as you
11 can see -- might mimic, might mimic them in some way, might
12 parrot them, make signs that they made, put things out there,
13 sayings that he'd heard and overheard.

14 Now, again, I just told you, I don't do social media
15 because to me, social media is about posturing. It's about
16 presenting a face to the world that really is not always
17 altogether true.

18 Now, you've seen the Government in the ubiquitous red
19 boxes of the social media posts, and I believe it's SM-10 was
20 Mr. Davis's.

21 The number of posts that Mr. Davis put on there that
22 the Government highlighted in that exhibit tied to Mr. Davis on
23 his social media posts, they're minimal.

24 Remember -- and I want you to remember this 'cause we
25 talked about this during examinations -- these are the

1 Government's greatest hits. These are the best things for
2 them. These are the things that are the most incriminating
3 pieces they can find and put before you.

4 And if you look at the pagination, the page number on
5 those Instagram records, the Government kept referring to it as
6 Page 14 or 15.

7 And I know I for one, but other counsel will say, Can
8 you give us the number that's on the upper right-hand corner
9 because that's the one that we can match up with what we can
10 see on our screens.

11 Those pages appear to have run into the thousands.
12 Yet, by my count, there are 28 posts in red boxes on that
13 exhibit. And only seven, by my count, relate to MMP or
14 MMP-related terms. Again, that's pretty weak support for the
15 Government's bridge.

16 Likewise, the wire and jail calls really don't span
17 the gap.

18 The only jail calls made to Mr. Davis are from
19 Sydni Frazier. Sydni Frazier, when he was here, was the only
20 person who appears to be a contemporary, same age as Mr. Davis.
21 And, clearly, they grew up in the same neighborhood.

22 There are seven calls, by my count, between
23 Mr. Frazier and Mr. Davis: five during August 2014 and two in
24 July 2015. Again, these are the Government's selections for
25 the calls to be presented.

1 At worst, ladies and gentlemen, it appears, based on
2 reading those calls, hearing those calls, that what's going on
3 in those calls is that Mr. Frazier, who was the person who was
4 locked up or in detention, is the one who had -- he's the one
5 who called out. Mr. Davis couldn't call in. They're talking
6 about what's going on in the neighborhood. They're talking
7 about current events.

8 And, unfortunately, in that neighborhood sometimes
9 things may have verged on what was happening with MMP because
10 that had some sway over that neighborhood, regardless of what
11 Mr. Davis did. They're catching up on current events. It
12 doesn't show -- those calls don't show Mr. Davis was a part of
13 MMP.

14 Now, as to the wire calls, there were four wiretaps
15 conducted in this case, four of them. Mr. Davis shows up on
16 one, and that line belonged to Jamal Lockley.

17 And of the hundreds, if not possibly thousands of
18 calls on all of these wiretaps that were captured, in reviewing
19 those calls on that line connected to Jamal Lockley, one call,
20 one call positively identified as Mr. Davis. And that's the
21 one the Government relied on to talk about drugs and use the
22 words "sister tip," TT-3-3533.

23 Finally, we get to the cell phone excerpts. Mr. Davis
24 had cell phones seized twice: once when he was arrested on
25 April 26th, 2016, when the gun -- a handgun and the AR-15 were

1 seized; second time when he was arrested on February 24th,
2 2017.

3 Cell phones were analyzed. And let me make sure I get
4 these correct. Extracts were prepared. And then from
5 extracts -- extracts, excerpts were prepared. And excerpts
6 were what we saw.

7 Now, the Government highlighted that CELL-2-A, which
8 was a phone that was seized in April of 2016, showed addresses
9 and telephone numbers for people who were in MMP.

10 And, ladies and gentlemen, again, I would submit to
11 you that the people that surround the area that you live in,
12 that you come into contact with on a somewhat daily basis, you
13 may have their contact information. You may have telephone
14 numbers, but it doesn't mean you call 'em. Doesn't mean you
15 contact 'em.

16 And, again, there is no record that Mr. Davis ever
17 e-mailed or called these people. The only person that you know
18 he called is Sydni Frazier, and we'll get to that in a couple
19 seconds.

20 Both excerpts also show text messages selected by the
21 Government to support its case.

22 In both of those phones, none of those text messages
23 are going to anybody there (indicating). They're text messages
24 that go back and forth between people that Mr. Davis appears to
25 be selling drugs to.

1 And, again, as much as I would like to deny that, as
2 much as I would like to say, you know, "Mr. Davis didn't sell
3 drugs," he did. I think there is absolutely evidence that he
4 individually sold drugs, but that doesn't make him part of MMP.

5 All of the cooperating witnesses said that pretty much
6 everybody in the area sold drugs: MMP, 5200, et cetera.

7 Now, you heard testimony from Mr. Banks and
8 Mr. Lashley that 5200 boys were permitted to sell drugs in the
9 neighborhood.

10 They also testified that if you weren't MMP and you
11 weren't 5200, that you got taxed or that you were subject to
12 being sanctioned or harmed somehow if you tried to sell drugs
13 in that area, that 5200 block of Windsor Mill Road.

14 And that's a really convenient theory for the
15 Government because in essence, what that means is if you sold
16 drugs in that neighborhood, then it meant you had to either be
17 part of MMP or associated with MMP.

18 In essence, to borrow a phrase I believe Mr. Trainor
19 used the other day when he was speaking with you, it allowed
20 the Government to indict this entire neighborhood.

21 But there has never been any testimony or evidence,
22 other than Mr. Banks, other than Mr. Lashley, potentially other
23 cooperating witnesses, saying there was this tax process; there
24 was the potential sanction; there was an approval if you were
25 5200 that let you be able to sell drugs.

1 There is nothing that shows us in terms of any gang
2 paperwork. There is nothing in terms of text messages. There
3 is nothing in terms of telephone calls. There is nothing that
4 corroborates that.

5 Again, that's a real linchpin of the Government's
6 case, but that just comes from two cooperating witnesses who
7 both have real problems with their credibility.

8 You take that away, that means that not everybody who
9 sold drugs in that area was MMP or associated with MMP. And,
10 in fact, I submit to you that Mr. Davis was not.

11 In regard to the concept that Mr. Davis was part of
12 MMP -- was part of the drug-trafficking conspiracy that was
13 essentially carried on by MMP, there are other questions:

14 Supply. Again, there's a one-word "yeah" text
15 response to Kenneth Torry that the Government alleges Mr. Torry
16 was working with MMP and selling drugs.

17 There is the one call, TT-3-3533, between Mr. Lockley
18 and Mr. Davis.

19 And then some additional, quite frankly, innocuous
20 text messages which I believe actually talk about music, not
21 drugs.

22 But it also begs the question: If MMP was an entity
23 and MMP was running a drug conspiracy, then why would Mr. Davis
24 be buying drugs from MMP members? Doesn't make any sense.

25 If you're working for the common good of the gang, why

1 wouldn't Mr. Davis at least be -- we've heard the term "fronted
2 drugs"? He takes drugs; they go this way. He takes money,
3 goes this way, and it goes back up to the hierarchy. But we
4 don't -- we don't know that.

5 There is, again, no consistent evidence that
6 establishes that Mr. Davis was part of a drug-trafficking
7 conspiracy. There are no ledgers. There are no records.
8 There's no paper trail.

9 Quite frankly, there's not any kind of trail that
10 shows Mr. Davis was selling drugs on behalf of or as a
11 conspirator with a gang.

12 On the other hand, you do have cooperating witness
13 Jay Greer. Jay Greer said, yeah, You know what? He used to
14 hang out with other people his age. The other thing is, he
15 used to work by himself. He didn't work with anybody. That's
16 from Jay Greer, Government's witness.

17 Now, Cell Phone Exhibit 3-A seems to really
18 corroborate this whole idea too. That's a cell phone that was
19 seized from Mr. Davis on February 24th, 2017.

20 And I asked Agent Moore, I said, You know what?
21 You've got all these text messages that are going back and
22 forth between people who appear to be buying drugs and selling
23 drugs, but there are no text messages to anybody over here
24 (indicating). There are no text messages to anybody who's a
25 part of the gang that would indicate Mr. Davis was getting

1 drugs from them.

2 And he admitted, Yes, that's correct.

3 Now, the Government in rebuttal says, Well, you know
4 what? That's because -- and Agent Moore actually tried to hint
5 it. He said, Yeah, He was a fugitive at that time.

6 Everybody else had been already arrested at that time.
7 How could he have contacted them?

8 But that, again, begs a question. If Mr. Davis was
9 out selling drugs and everybody else, or at least most
10 everybody else had been arrested, how does he sustain himself
11 selling drugs? Where is he getting his drugs from?

12 If his source was the gang, how come he doesn't stop
13 selling drugs when the gang gets arrested? It's an interesting
14 question.

15 There are many questions that are begged and
16 assumptions that are really not supported in the Government's
17 case, and I'm going to leave you with three of them.

18 The first, in her closing, Ms. Perry argued that
19 Mr. Davis possessed 25 grams of cocaine base on February 24th,
20 2017, when he was arrested. Excuse me.

21 And what the chemist testified to, ladies and
22 gentlemen, was that she tested one of four bags of white powder
23 that were recovered from Mr. Davis that day.

24 She said it was the practice of the Baltimore Police
25 lab to only weigh one container. And if, in their opinion, the

1 other containers appeared to have the same consistency or the
2 same color, well, they didn't -- they didn't bother to test
3 'em.

4 But she also said that to test samples from the other
5 three bags that were recovered would have taken five minutes
6 apiece. So a total of 20 minutes if she'd done all four. 15
7 minutes to do the extra three.

8 So what you know, what you know is that one of those
9 bags contained cocaine base.

10 What you're based -- or asked to accept and assume is
11 true is that the other three bags also contained cocaine base,
12 based on a very unscientific but a time-saving opinion given by
13 the chemist. To get to where Ms. Perry wants you to go, you
14 have to assume. And that's not what trials are for.

15 Ms. Perry also argued that Mr. Davis reasonably could
16 foresee that Ricardo Johnson would be murdered. She based this
17 conclusion on three things.

18 One, according to Malcolm Lashley -- who, again, I
19 would submit to you is not the most reliable witness --
20 Mr. Davis was present when Mr. Frazier said he wanted to rob
21 Mr. Johnson.

22 Two, on August 5th, 2016, five days before the
23 homicide was supposed to have occurred, according to an excerpt
24 of an extract -- and I got those terms right, Mr. Frazier's
25 cell phone contained -- in Government's Exhibit CELL-5-A

1 contained two text messages to a number that was associated
2 with Mr. Davis talking about: Grab three black Jimmy Macks,
3 two including you, which Ms. Perry interpreted to mean "get
4 guns."

5 Three, at 3:07 a.m. on the morning of August 10th,
6 again, the day/morning, not sure, because we don't know
7 specifically when it happened, the homicide was alleged to have
8 occurred, that Mr. Frazier called that same number associated
9 with Mr. Davis for 11 seconds.

10 But to get where Ms. Perry wants you to go, you would
11 have to ignore information she did not include, make several
12 assumptions, and guess at at least one thing.

13 You'd have to, first of all, believe Malcolm Lashley
14 that Mr. Davis was actually present and paying attention or
15 able to even hear when Mr. Frazier talked about
16 Ricardo Johnson.

17 You would have to assume that at some point
18 Mr. Frazier changed from what Mr. Lashley said he said he
19 wanted to do, change that from robbery to murder.

20 You would have to assume that Mr. Davis possessed the
21 cell phone to which Mr. Frazier's texts and calls were directed
22 on August 5th and August 10th. You'd have to assume that
23 Jimmy Macks meant guns, as Ms. Perry argues.

24 And you would have to ignore the fact -- but it's
25 right there in front of you, ladies and gentlemen, on this

1 record -- that the number that was associated with Mr. Davis in
2 regard to the "grab three black Jimmy Macks and two including
3 you" to that number, that that was somehow acted on. But
4 there's no response.

5 There's nothing that says, Yeah, I'm going to do it.

6 Yes, okay, I got it. What do you mean?

7 Nothing. Silence. Crickets.

8 Again, you have to assume.

9 And, ultimately, you would have to guess at what
10 happened in that August 10th call.

11 Now, Agent Moore, for his part, he admitted he
12 couldn't tell you who was on the August 10th call or what
13 happened during those 11 seconds. Nobody can.

14 But, again, it's a leap and another leap and another
15 assumption, speculation. You've got to do all those things to
16 believe that point and believe that Mr. Frazier did that, but
17 also that Mr. Davis was someone who could -- said to have been
18 reasonably for -- he could have reasonably foreseen what would
19 happen to Mr. Johnson.

20 I'm going to leave you with one last one. And I
21 apologize. I know I've been going on for some time. If you
22 were my wife, you would have walked out of the room about 30
23 minutes ago. Happens all the time.

24 The most blatant example of the Government asking you
25 to rely on an assumption and take a big leap of faith was one

1 of the last things you heard about. And Ms. Perry actually
2 cited it in her closing argument. It's called J-6.

3 The next-to-the-last time that Agent Moore testified,
4 Ms. Hoffman said, Are you familiar with calls that involved the
5 hiding of guns in the 5200 block of Windsor Mill Road?

6 And then she suggested Call J-6, and that was a call
7 from Mr. Frazier to Mr. Davis. Again, Mr. Frazier is arrested,
8 detained. Mr. Davis is not.

9 She asked him to listen to the call and then directed
10 him to a passage -- and I'm going to show you that. And I've
11 highlighted it there where Mr. Davis is alleged to have spoken.

12 He says [reading]: They were eight deep walking
13 around all day and that -- through the woods. And I put two of
14 them -- and I apologize again for the language -- bitches up
15 there, and I can't even go up there and pay -- and get my --
16 again, excuse my language -- shit 'cause I don't know if they
17 still over there, man.

18 Ms. Hoffman then asked Agent Moore, Was that call
19 about the hiding of firearms in the 5200 block of
20 Windsor Mill Road?

21 And he responded, Yes.

22 Now, I kept waiting for Ms. Hoffman to ask the
23 follow-up question: And how did you know, Agent Moore, that
24 they were talking about the 5200 block of Windsor Mill Road?

25 But that question never came. And I kept waiting for

1 a follow-up question from Ms. Hoffman and Agent Moore: You
2 know or you found or someone found or some way somehow there
3 was guns that were found in that area that temporally in time
4 connected to that call?

5 But that question never came.

6 And so I asked those questions.

7 And Agent Moore answered the questions that I posed to
8 him the same way. He assumed. He assumed that Mr. Frazier and
9 Mr. Davis were discussing the 5200 block of Windsor Mill Road,
10 but that's not in that call. And he said he assumed that they
11 were discussing guns.

12 But he also said, to his knowledge, because he
13 certainly didn't do it, no one at the time of that call in that
14 general time frame recovered guns that could be related to that
15 call.

16 Assumptions are not evidence, ladies and gentlemen.

17 But the Government's case against Shakeen Davis is
18 based on numerous assumptions, insinuations, as well as
19 testimony from inherently incredible witnesses.

20 No bridge could stand with such faulty supports,
21 especially one that has to cross such a broad and critical
22 divide as going from mere accusation to beyond reasonable doubt
23 and carry the weight of a man's life (indicating).

24 At the beginning of this case, I told you that one
25 thing here is not like the other, that one thing here does not

1 belong.

2 The Government did not prove that Shakeen Davis ever
3 joined or associated with Murdaland Mafia Piru.

4 The Government did not prove that Mr. Davis ever
5 joined the racketeering conspiracy as it's charged in the
6 indictment.

7 The Government did not prove that Mr. Davis ever
8 joined the drug-trafficking conspiracy as it's charged in the
9 indictment.

10 In short, ladies and gentlemen, the Government never
11 proved that Mr. Davis belongs.

12 Thank you.

13 **THE COURT:** Thank you, Mr. Hazlehurst.

14 We will take a break before we hear from the
15 Government in rebuttal, which will be the last part of the
16 argument.

17 I will start by excusing the jury.

18 (Jury left the courtroom at 11:05 a.m.)

19 **THE COURT:** All right. Excuse my voice, which I
20 appear to be losing.

21 I will excuse the gallery at this time.

22 Okay. We'll take a recess.

23 (Recess taken.)

24 **THE COURT:** All right. We're ready to bring the jury
25 back in.

1 If you don't mind, Ms. Hoffman, I'll make the
2 announcement -- I'll tell them about Mr. Davis's recovery.

3 (Jury entered the courtroom at 11:28 a.m.)

4 **THE COURT:** So, ladies and gentlemen, before we move
5 on to the Government's rebuttal, I just wanted to give you what
6 I hope you will think is good news, sort of an update.

7 You'll remember it was a week or two ago now I told
8 you that Mr. Frazier would not be here anymore because of his
9 counsel having a medical situation.

10 He'd been having some tests done. I won't go into
11 great detail, but he did need emergency surgery, Mr. Davis.

12 And I'm glad to tell you that it went well, that he's
13 out of it and recovering well. He will need some therapy and
14 so forth.

15 But I just thought you'd like to know he did do okay
16 with his situation.

17 All right. Ms. Hoffman.

18 **MS. HOFFMAN:** Good morning. I have a habit of talking
19 too fast; so if I do that, just signal me.

20 The defense attorneys have asked you to discredit
21 every single thing that every single cooperator told you unless
22 it advances their position.

23 Believe William Banks when he tells you that
24 Jamal Lockley is a 5200 boy. Don't believe William Banks when
25 he tells you about all the murders and shootings these

1 defendants committed.

2 Believe Jay Greer when he tells you that the
3 defendants wanted to make it as rappers. Don't believe
4 Jay Greer when he tells you that the things they rapped about
5 were true.

6 That's a really tough position to take.

7 And let's be clear: Murdaland Mafia Piru was not a
8 rap group. This case isn't about rap.

9 Frankly, that's pretty insulting to the victims of the
10 defendants' crimes. Antoine Ellis, James Edwards,
11 Brian Johnson, Anthony Hornes, Ricardo Johnson, they didn't
12 lose their lives because of a rap group.

13 The defendants were part of a real gang that committed
14 real crimes with real victims. No one is being prosecuted for
15 being a rapper or an aspiring artist or writer.

16 Did Dante Bailey want to make it as a rapper?

17 Sure.

18 Did he want to sell books?

19 Maybe. Maybe he'll go on to have a successful career
20 as an urban fiction writer. That doesn't mean he wasn't the
21 leader of a horribly violent Bloods gang responsible for the
22 murder and mayhem that you heard about over the last six weeks.

23 You've heard from over 50 witnesses in this case, but
24 you don't have to take the witnesses' word for it. You've
25 heard about the defendants' crimes from the defendants

1 themselves in their gang paperwork, their jail calls, their
2 wire calls, their text messages, their social media posts,
3 their iCloud accounts. You've seen ballistic evidence and DNA
4 evidence. You've seen boxes full of drugs and guns pedaled by
5 this organization.

6 And what all this evidence shows is that for more than
7 six years, Murdaland Mafia Piru and these five defendants
8 reigned terror on West Baltimore. They ruled with a gun,
9 taking over intersections and turning them into open-air drug
10 markets.

11 They shot and killed outsiders who posed a threat to
12 the gang.

13 They turned on their own fellow gang members for the
14 slightest of offenses.

15 And sometimes they engaged in violence for seemingly
16 no rational purpose at all.

17 And the victims of their crimes were unfortunate
18 citizens of Baltimore like Anthony Hornes, who was in the wrong
19 place at the wrong time.

20 Worst of all, MMP and these five defendants used
21 violence and threats of violence to systematically silence
22 witnesses to their criminal activities so that they could
23 continue to operate outside the rule of law.

24 They used Facebook and Instagram and YouTube to send
25 the message that they controlled the neighborhood and snitches

1 would be punished by death.

2 They plotted to murder two of the witnesses who you
3 heard testify in this case. And that tells you a lot. Right?

4 The defense attorneys want you to discredit virtually
5 everything the cooperators told you, but that doesn't explain
6 why the defendants tried to kill them.

7 Why worry about William Banks and Jay Greer unless
8 they had damaging information? You know why they tried to kill
9 William Banks; you know why they tried to kill Jay Greer,
10 because they knew too much.

11 They desperately wanted to keep Trouble and Champagne
12 off that witness stand. They desperately wanted to keep them
13 from telling you about their crimes.

14 And they almost succeeded. At least with respect to
15 Jay Greer, they almost succeeded. If law enforcement officers
16 hadn't intervened in the nick of time, you wouldn't have heard
17 from Jay Greer during this trial. Instead, you would have
18 heard from another Medical Examiner.

19 There were five defense attorneys, and I'm not going
20 to be able to address all of their arguments in the time that I
21 have today.

22 I'm going to start with some of the common themes that
23 we heard from a number of the defense attorneys, and then I'll
24 walk through some specific arguments to each defendant.

25 I want to start with the law on racketeering

1 conspiracy. This is Count 1.

2 The defense attorneys spent quite a lot of time trying
3 to poke holes in the evidence of specific murders and specific
4 shootings.

5 And listening to those arguments, you might have
6 thought that you were being asked to return verdicts as to
7 those individual crimes, and that's not true.

8 Except for the murder of James Edwards, charged in
9 Count 3, and the other separately charged counts that you heard
10 about from Ms. Perry, you're not being asked to determine
11 whether these defendants are guilty beyond a reasonable doubt
12 of any particular murder or any particular shooting or drug
13 deal.

14 With racketeering conspiracy, the crime is the
15 agreement itself.

16 All that you're required to find is three things:

17 First, the gang Murdaland Mafia Piru existed.

18 Second, the gang engaged in the kinds of racketeering
19 activity that we've been talking about. That's the murder,
20 drug dealing, witness tampering, et cetera.

21 And, third, that the defendants agreed to participate
22 in the gang's affairs, knowing that its members would commit at
23 least two racketeering acts.

24 So it could be as simple as agreeing that its members
25 would sell drugs on two different occasions. That's enough.

1 Now, you heard a lot more than that over the last six
2 weeks, and you have a lot more in front of you. But that's all
3 you need to find on Count 1, the racketeering conspiracy.

4 So you're not being asked to find beyond a reasonable
5 doubt that Sydni Frazier robbed and killed Ricardo Johnson,
6 just to give you an example. He did do that, but you're not
7 being asked to find that.

8 The reason you heard about all those specific murders
9 and shootings and drug deals was to help you determine the
10 scope of the defendants' agreement to participate in the
11 charged racketeering enterprise, to help you determine what was
12 reasonably foreseeable to each defendant.

13 It's the defendants' agreement and the scope of that
14 agreement that matters.

15 Now, Mr. Trainor was absolutely right when he said
16 mere association is not enough.

17 You heard Judge Blake's instructions. It's not enough
18 that a defendant is from the neighborhood. It's not enough
19 that he's friendly with members of the gang. Of course not.
20 That would be crazy. This isn't guilt by association.

21 The defendant has to knowingly and intentionally
22 participate in the gang's affairs with knowledge of its
23 criminal purposes and with the intention of aiding those
24 criminal purposes. And that's exactly what Jamal Lockley and
25 every other defendant here did, and I'm going to come back to

1 that later.

2 So I know you heard 50-some pages of jury
3 instructions, and there's a lot of legalese in there. But at
4 the end of the day, it's not really that complicated.

5 The gang Murdaland Mafia Piru existed. Members agreed
6 that the gang would commit crimes. The defendants joined that
7 agreement. They agreed to participate in the crimes that the
8 gang was committing.

9 And then once you make that determination, you'll be
10 asked to determine which of those crimes were reasonably
11 foreseeable to the defendants.

12 Defense counsel talked a lot about drug quantity,
13 particularly Mr. Trainor. And I want to spend some time on
14 that.

15 You heard instructions from Judge Blake that the
16 question is not whether each individual defendant personally
17 sold a kilogram of heroin and 280 grams of crack cocaine. In
18 fact, you don't need to find that any defendant dealt even a
19 single gram of drugs.

20 The test is what's reasonably foreseeable within the
21 scope of the conspiracy.

22 So the question you're being asked to decide is: Was
23 it reasonably foreseeable to the defendants that members of the
24 conspiracy would distribute or attempt to distribute or plan to
25 distribute a kilogram or more of heroin and 280 grams or more

1 of crack cocaine over the lifetime of the conspiracy?

2 And I think you'll find the evidence shows that the
3 defendants conspired to distribute far, far more than the
4 quantities charged in the indictment.

5 Like Ms. Perry told you, the quantities charged in the
6 indictment are really just a drop in the bucket for this gang.

7 You heard from witness after witness that MMP's drug
8 shops at Windsor Mill and Forest Park and Gwynn Oak and
9 Liberty Heights, they were open-air drug markets: Heroin,
10 crack, cocaine, marijuana. You name it; they sold it.
11 Sometimes the heroin was cut with fentanyl to increase the
12 potency, and you heard evidence of overdoses and the testimony
13 and saw it in the text messages.

14 At the BP gas station, customers would come by car via
15 Interstate 70 all day long, day in and day out. They'd
16 typically buy at least a half gram of heroin per transaction,
17 sometimes multiple grams. You saw that in the text messages.

18 William Banks told you he could sell 60 grams of
19 heroin himself personally on a good day, and there were usually
20 a dozen or more MMP members out there selling every day.

21 He told you, based on what he personally sold and what
22 he observed with his own eyes, the gang sold at least a
23 kilogram of heroin per week at the BP gas station.

24 But you don't have to take his word for it. You heard
25 from two of the gang's drug customers. Jarrud Dixon told you

1 that he bought gram quantities of heroin from
2 Adrian Jamal Spence and Dante Bailey on a near-daily basis for
3 years.

4 Brandon Robinson told you that he bought a half gram
5 of heroin from Jamal Lockley every day or every other day for a
6 year. That's two customers, hundreds of grams of heroin.

7 And you know from the text messages that the gang had
8 scores and scores of customers, countless customers.

9 You saw hundreds of pages of drug texts, excerpted
10 from the cell phones recovered from Jamal Lockley,
11 Shakeen Davis, Sydni Frazier, Adrian Jamal Spence, just to name
12 a few.

13 And I know it was painful going through those
14 text messages, and we only read a portion of them. Pages and
15 pages of texts such as [reading]: I need four total. Divide
16 it into two and two.

17 Or [reading]: Yo, I'm 20 -- I'm 20 minutes out, and I
18 need 2 gs.

19 Or [reading]: I need two whole ones and a 50 of girl.

20 Day in and day out. Think about the blast texts that
21 Shakeen Davis sent out from his phones -- "That good with boy
22 and girl" -- advertising heroin and cocaine to multiple
23 customers at the same time.

24 You also listened to probably three full days' worth
25 of wire calls. And, again, I know they became very repetitive,

1 and we only played a sample of them for you.

2 But the point of playing all those calls and reading
3 all those text messages was so you could hear how the
4 organization operated. There didn't need to be a lot said.
5 These guys know each other, and they know how to run the drug
6 shop.

7 So they don't need to call one another up and say,
8 Hey, I need to buy 50 grams of heroin. Or, You need to sell
9 2 grams of crack to Gary.

10 They don't need to be that explicit. That's not how
11 it works.

12 Sometimes they are explicit, and you heard a lot of
13 pretty explicit drug talk by Lockley and Bailey and even Davis
14 over the phone, at least in text messages.

15 Anderson was much more cautious. You heard him berate
16 Lockley for talking too loosely on the phone, but you still got
17 the gist of it.

18 Lockley would say -- Lockley would ask Anderson if he
19 had it.

20 Anderson would say he was going to swing through. He
21 would ask Lockley if he had the money.

22 Anderson would complain about the count being off.

23 You heard about some pretty big seizures of drugs in
24 this case. You heard about roughly 600 grams of heroin
25 recovered from Adrian Jamal Spence, Spittle's stash house, on

1 July 20th of 2015. 600 grams of heroin on a single occasion.

2 And I want to talk about that one because Mr. Trainor tried to
3 distance his client from this.

4 But you heard from the witnesses and the wire calls
5 that Spence was an MMP boss who was supplying heroin to members
6 of the gang for distribution. He was supplying Jamal Lockley,
7 William Jones, Jarmal Harrid, to name a few.

8 Spence was using Kameron Wilson's residence at
9 532 Coventry Lane to stash the heroin, but it was an MMP
10 stash house.

11 You heard it from the witnesses, but you also heard it
12 in wire call after wire call. You heard Spence telling Wilson
13 to bag up 200 for the a.m.; Spence telling Wilson to start
14 stomping on it, start crushing it down real quick.

15 You saw surveillance photos of Spence going in and out
16 of the residence at 532 Coventry Lane.

17 Now, Mr. Trainor tried to tell you there wasn't
18 anything connecting Jamal Lockley to that stash house, and that
19 couldn't be further from the truth.

20 You actually heard dozens of wire calls between Spence
21 and Lockley talking about heroin transactions during that same
22 time period.

23 So you heard Call D-307. This was on June 23rd of
24 2015, about a month before that heroin seizure. Lockley asked
25 Spence to bring him a ten-piece. That's ten grams of heroin.

1 You heard Call D-466, June 29th of 2015. Lockley
2 tells Spence there's a one-piece at the pump in a silver Honda.
3 That means there's a drug customer looking to buy a gram of
4 heroin at the BP gas station pumps.

5 You heard Call D-644, July 6th of 2015. Spence agrees
6 to give Lockley a 40-piece. That's 40 grams of heroin.

7 Call G-78, July 20th of 2015, the same day the
8 600 grams of heroin was recovered, you heard Lockley tell
9 Spence he's about to pull up; and he asks if Spence still needs
10 the clock. That's a reference to the digital scale.

11 And Spence says, yeah, he needs the clock and the
12 sandwich bags, too.

13 The very next day, Call G-148, Lockley tells Spence he
14 needs 50. That's 50 grams of heroin.

15 And Spence tells him to hold on 'cause the knockers --
16 that's the police -- are up there. And that's telling. MMP's
17 drug operation doesn't come to a screeching halt after the
18 search warrant at 532 Coventry Lane. Law enforcement officers,
19 they hit the stash spot; they recover 600 grams of heroin that
20 the gang keeps right on selling.

21 The very next day, Lockley is getting 50 grams of
22 heroin from Spence.

23 So that's one of the ways you know that 600 grams of
24 heroin was just a drop in the bucket.

25 And, by the way, law enforcement officers also

1 recovered a kilo press from that stash house, and you don't
2 have a kilo press unless you're working with kilogram
3 quantities of drugs.

4 You heard from Jay Greer. He told you about a time in
5 2015 when he went with Dante Bailey and Randy Banks, Dirt, to
6 Dirt's trap house in Gwynn Oak and Liberty Heights area.

7 And he watched Dirt cook up half a kilogram of
8 crack cocaine. That's 500 grams of crack on a single occasion,
9 so you're already past the 280-gram threshold.

10 And you don't have to take Greer's word for it alone.
11 You saw a photo of the trap house from Dominick Wedlock's
12 cell phone. You saw Randy Banks, Dirt, and Wedlock standing
13 next to each other behind a table that had newspaper and a
14 sifter and baking soda, so the tools of their crack cocaine
15 cooking operation on display in front of them.

16 You heard about a surveillance operation of
17 Randy Banks on May 12th of 2016 when law enforcement recovered
18 baggies of crack from three drug customers who had come from
19 Dirt's nighttime drug shop, affectionately called "the hole,"
20 as Jay Greer told you.

21 And we heard a lot of argument from Mr. Sardelli that
22 that was -- it was just a minuscule quantity; it was less than
23 a gram of crack cocaine.

24 And that's true, but each of those three sales took
25 seconds at that drug shop (snaps fingers).

1 And you heard testimony that Randy Banks was out there
2 every night. He was cooking up crack. He was distributing it
3 to his hitters. He was overseeing the drug operation at
4 Gwynn Oak and Liberty Heights.

5 And, by the way, Mr. Sardelli also told you that -- he
6 said, Well, you only heard evidence that Randy Banks sold
7 crack. You didn't hear any evidence that he sold heroin.

8 And that's not the test. The test is a reasonable
9 foreseeability.

10 So if you remember, William Banks told you that he
11 mainly sold dope, heroin. He didn't really sell crack. But
12 that doesn't mean that he didn't know that Dirt was supplying
13 crack to other members of the gang.

14 Of course, he knew that. And, of course, Dirt knew
15 that others in the gang were selling heroin. He was a
16 high-ranking member of the gang with knowledge of what was
17 going on at its drug shops.

18 You heard a lot -- you heard about a lot of other
19 seizures in the case, and I'm not going to give you a laundry
20 list of them.

21 But even when you consider just the drugs that have
22 actually been seized and are in evidence, you're already
23 approaching a kilogram of heroin. And that's just what
24 law enforcement did on a few days of 2015 and 2016. That's not
25 taking into account the wire calls, the text messages, and the

1 witness testimony.

2 So over the course of six years, a kilogram of heroin
3 is a drop in the bucket. 280 grams of crack cocaine is a drop
4 in the bucket.

5 Even if the individual defendants didn't personally
6 distribute those quantities themselves -- and the evidence
7 suggests that they did -- but even if they didn't, they
8 certainly understood the scope of what was going on. You would
9 only have to work in the drug shop for a few days to understand
10 the scope of what was going on.

11 So Mr. Trainor asked you to be conservative in
12 determining drug weight. And he's right. You should be
13 conservative. That's exactly what we've asked you to do.

14 We could have asked you to find the defendants
15 conspired to distribute 10 kilograms, 20 kilograms,
16 100 kilograms, six years at a kilogram per week would be
17 312 kilograms of heroin. We're not asking you to find that.

18 The quantities that you're being asked to find are
19 about as conservative as we could get, given the evidence in
20 this case.

21 So I'm going to move on to witness credibility.

22 The thrust of all the defense closings was about
23 witness credibility, because it had to be.

24 You heard from over 50 witnesses, including ten
25 civilian witnesses. And, like I said, the defense counsel want

1 you to discredit virtually everything all of them told you, and
2 that's a really tough position to take.

3 If this case rested on just William Banks or just
4 Malcolm Lashley's testimony, I would understand.

5 But you didn't hear from just one or two cooperators.
6 You heard from six cooperators, as well as drug customers and
7 residents of the community in which these defendants operated.

8 And listening to the defense attorneys, you would
9 think that that's the Government's entire case, that there
10 wasn't a wiretap and search warrants and gang paperwork and
11 jail calls and text messages and social media. Just ignore all
12 of that. That's what the defense attorneys want you to do.

13 And when we're focused on the cooperators, they want
14 you to look at them one at a time, individually, in a vacuum.
15 And that's exactly what you're not supposed to do.

16 You're supposed to look at the entire case, all of the
17 evidence, and how it fits together, because especially in a
18 case like this, each piece of evidence informs the rest of the
19 case.

20 So one cooperator's testimony informs another; one
21 piece of ballistic evidence informs a cooperator's testimony;
22 the wire calls inform cooperator testimony. All of it is
23 linked together.

24 And all of the defense counsel, they want to associate
25 these cooperators with the Government. You heard all of them

1 say that; they work for the Government.

2 But they really got it backwards. The cooperators are
3 not our friends. They're their friends (indicating). That's
4 who they hang out with.

5 William Banks, Jay Greer, Malcolm Lashley,
6 Derran Hankins -- these are all friends of the defendants.
7 They're their associates. And you know that because you saw
8 them in photos together. You heard them in calls together.

9 We didn't choose these witnesses; the defendants did.
10 They're the people who the defendants chose to commit their
11 crimes with.

12 William Banks is the obvious scapegoat in this case.
13 He committed terrible crimes. He lied about the Mirage
14 shooting.

15 There was some confusion about this in
16 Mr. Hazlehurst's closing. The Mirage shooting happened in
17 2012, by the way. William Banks didn't become a CI until 2015.

18 But he did lie about the Mirage shooting. That's a
19 big lie. He's paying for that lie, and he's going to continue
20 to pay for it for a long time to come.

21 But defense counsel took it about ten levels too far.
22 They told you that because he's done bad things, because he
23 lied in the past, that means you shouldn't believe anything he
24 told you. And that's not right.

25 You heard him testify. He came in here, and he owned

1 up to the terrible things that he did for MMP.

2 When Dante Bailey told him to kill Snook because he
3 was a rat, he tried to kill Snook. He stood over him and fired
4 again and again.

5 When his fellow gang member Spittle, Spence, started
6 shooting at Terrell Gale, he joined in. And why did he do
7 those things?

8 Well, he read the gang paperwork. He knew what he had
9 to do to work his way up in the ranks in the gang. He knew
10 cooperation with authorities was punishable by death. He knew
11 retaliation is a must. He wanted to win Dante Bailey's
12 approval. He bought into the gang's culture. He wanted to be
13 someone in the gang.

14 But what William Banks told you about the gang has
15 been corroborated over and over again in the past six weeks.
16 This case does not rest on William Banks. He's one small piece
17 of it.

18 This case is ugly. There's a lot of ugliness. The
19 murders, the violence, the overdoses.

20 These crimes didn't take place in a church or a
21 hospital. We can't call a local reverend or a doctor to come
22 in and tell you what happened. We have to call the
23 William Banks of the world. We have to call the
24 Devin Fergusons of the world.

25 But, again, we didn't just call one, and we didn't

1 just offer up their testimony in a vacuum. The case is ugly,
2 and the witnesses the Government called reflect that reality.

3 The cooperators have committed crimes; and some of
4 them got paid, although much of that was for relocation and
5 safety reasons. But they got paid, nonetheless.

6 In fact, when I gave my opening statement, I told you
7 to be more skeptical of their testimony than anybody else that
8 you would hear from.

9 I told you that the cooperators had committed crimes,
10 that they were looking to get lighter sentences, that they had
11 been paid.

12 I told you about all that because I wanted you to know
13 up front what you are going to be hearing, that you are going
14 to be hearing from people who committed terrible crimes and to
15 give their testimony careful scrutiny.

16 But the defense counsel want you to think that because
17 they're not good people, they shouldn't be believed. And
18 that's not the test.

19 Ms. Amato gave you the example of going to Dr. No Good
20 for advice about a medical procedure. You wouldn't hire these
21 cooperators as your doctor. Of course not. Your doctor
22 doesn't hang around 5200 Windsor Mill Road and sell heroin and
23 witness murders.

24 These guys are easy to beat up. They don't use good
25 grammar. They don't speak into the microphone. They mumble.

1 They give short answers. They're hard to understand.

2 Mr. Hazlehurst said Malcolm Lashley didn't seem very
3 acute. They're not good witnesses in that sense. They're not
4 professional witnesses. They slouch. How many times did
5 Malcolm Lashley have to be told to sit up? And he still
6 slouched.

7 How many times did Jay Greer have to be told to speak
8 into the microphone?

9 But consider for a minute what it's like for them.
10 Maybe when they come in here to testify in this courtroom, in
11 front of these defendants (indicating), when there's 30 to 40
12 people in the courtroom, maybe it's a little bit intimidating.
13 Maybe it's hard for them to come in here.

14 Maybe it's hard for someone like Malcolm Lashley, who
15 grew up in the 5200 block of Windsor Mill Road, whose own
16 brother is in the gang, who has a close relationship with some
17 of the defendants, to testify against them?

18 Maybe it's hard for someone like Jay Greer, who
19 thought that this gang, MMP, was supposed to be his family.

20 Maybe they're terrified and they don't want to be
21 there. Maybe they want to be anywhere else in the world except
22 for that witness stand, talking about what they're talking
23 about, because it's not like they're talking about bank fraud.
24 They're talking about murder. They're talking about plots to
25 murder snitches. In some cases they're talking about plots to

1 murder them themselves (indicating).

2 Defense counsel expect them to waltz in here and
3 deliver their testimony like trained actors, to use exactly the
4 same wording that they used in proffers and in the grand jury,
5 just like they're reading a script. And that's not how it
6 works.

7 I want to move on to the individual defendants,
8 starting with Dante Bailey and some of the arguments that
9 Mr. Enzinna made.

10 Mr. Enzinna didn't try to claim that
11 Murdaland Mafia Piru was a fiction, because he couldn't
12 realistically. The evidence is too overwhelming.

13 But he did try to spin it in a more favorable light.

14 If I can get this to work.

15 He did try to spin it in a more favorable light, so he
16 put the seven mob mandates up on the screen. This was from
17 GP-21, and it's from the gang paperwork that Officer DiPaola
18 recovered. And William Banks identified it as gang paperwork
19 that Dante Bailey gave him to read when he joined MMP.

20 Thank you so much.

21 And Mr. Enzinna, he conceded that this was paperwork
22 written by Dante Bailey. But he asked you to look at the other
23 mob mandates, not just "retaliation is a must," but "family
24 first" and "find God. Pray for your family."

25 So the argument is Dante Bailey created MMP, but it

1 wasn't a criminal gang. It was about family.

2 Let's think about that. Think about Dante Bailey
3 ordering Bino to kill MMP member Antoine Ellis just because he
4 associated with members of a rival gang. Is that family?

5 Dante Bailey threatening to kill anyone in the gang
6 who wouldn't fork over money to pay for his lawyer, is that
7 family?

8 Dante Bailey ordering a hit on Jay Greer because he
9 suspected him of cooperating with law enforcement, is that
10 family?

11 Jay Greer told you that when Gutta first told him
12 about MMP, he wanted to join in part because it seems like a
13 family.

14 Greer grew up in foster care. He didn't have a family
15 of his own. And that's how Bailey sold it to him in the
16 beginning, My All Family I Am. You saw that in a lot of
17 Bailey's gang paperwork when he was trying to recruit people to
18 join MMP.

19 And at first, Greer bought into it. He did the things
20 Bailey told him to do. When Bailey told him to sell drugs, he
21 sold drugs. When Bailey told him to hide guns in the car, he
22 hid guns in the car.

23 But over time it became clear that MMP wasn't exactly
24 as it had been advertised. Greer got sanctioned for silly
25 things like eating someone else's hot dog and losing the keys

1 to the barbershop where they stashed drugs. He got beaten so
2 badly he had to go to the hospital.

3 Then Bailey reamed him out for not taking a gun charge
4 for him. You heard that jail call where Bailey says you got to
5 safeguard the big homies.

6 Next thing Greer knew, Bailey was shoving a gun in
7 Greer's hand and ordering him to kill some guy he'd never met.

8 And remember how Greer described that. He said Bailey
9 tried to give him a guilt trip. Bailey said, They shot your
10 brothers. They shot your family. You think you're one of us.
11 You've got to do something about this.

12 And Jay Greer, maybe he never had a family. But he
13 knew that's not how family's supposed to work. Family is not
14 supposed to manipulate you into committing murder. Family is
15 not supposed to have you killed because you know too much.

16 Jay Greer realized three years too late, maybe, but he
17 realized that he'd been manipulated; he'd been sold a pack of
18 lies.

19 Ms. Whalen said something in her opening statement
20 that I found interesting. She said that the cooperators in
21 this case had sold the Government a bill of goods. I think she
22 got it exactly backwards. Dante Bailey sold Jay Greer a bill
23 of goods.

24 MMP was not a family. MMP was a vicious gang, a
25 ruthless criminal organization that left behind a legacy of

1 fear, misery, and contempt for the rule of law. It wasn't
2 remotely close to a family.

3 Mr. Enzinna also talked about Dante Bailey's
4 screenplay, and Mr. Sardelli did too. And they tried to liken
5 it to "Goodfellas" or "The Godfather."

6 Mario Puzo didn't commit the crimes that he wrote
7 about in "The Godfather."

8 And, likewise, they argue Dante Bailey didn't commit
9 the crimes he wrote about in his screenplay.

10 But Dante Bailey is not Mario Puzo. You know that
11 when Dante Bailey writes in his screenplay about Nooks getting
12 hit at club Mirage, he's writing about a shooting that he
13 ordered because you saw it on video and you heard it from the
14 shooter himself.

15 You know that when Dante Bailey writes about the
16 lucrative heroin shop at 5200 Windsor Mill Road, about the
17 junkies coming from Western Maryland and other states, about
18 the hitters and the lookouts, about Spittle and Bo supplying
19 heroin and directing customers, you know he's not pulling that
20 out of thin air. He's writing about what he knows.

21 You know because you heard it from the addicts who
22 bought heroin from these defendants on a daily basis over a
23 period of years. You know because you heard the wire calls.
24 You know because you heard from the law enforcement officers
25 who recovered the drugs. This is not some fiction. This is

1 what Dante Bailey knew and lived.

2 Art imitates life. And sometimes the reverse is true
3 also: Life imitates art.

4 I have no doubt that Dante Bailey has seen the movie
5 "The Godfather." I have no doubt that he has learned some
6 things about the Italian mafia from pop culture, and he
7 appropriated some of those ideas when he was forming his
8 Bloods gang.

9 The Omertà code, the bosses, the capos, the made
10 men -- he was creating a brand, and he adopted ideas from pop
11 culture. There's nothing unusual about that. Art imitates
12 life, and life imitates art. But art is not a defense to real
13 crimes with real victims.

14 You also heard from Mr. Enzinna -- and some of the
15 other defense attorneys talked about this, too. They said MMP
16 was too disorganized; it was too unstructured to be an
17 enterprise.

18 They said you heard about all these different
19 groups -- MMP, 5200 boys, Get Money Boys. Anyone could sell
20 drugs at the BP. Clearly, this wasn't a conspiracy.

21 And that's not right.

22 All the cooperators told you the same thing in
23 different words. If you wanted to sell drugs in that area, in
24 MMP's territory, you either had to be a member of MMP or you
25 had to have special permission from its leaders.

1 Sometimes you got a pass because you were a 5200 boy.
2 You grew up selling drugs in the neighborhood. You had close
3 personal friendships with members of the gang.

4 Maybe you were like Jay Greer and you got a pass
5 because you were close friends with Dante Bailey or mixing and
6 remastering music for him.

7 The bottom line, though, is that you had to be on
8 Team MMP.

9 You had to play by MMP's rules. You had to kick out
10 money when they told you to.

11 If you weren't on Team MMP and you tried to sell drugs
12 in that area, you'd get robbed, beaten up, or killed.

13 So it's true that the 5200 boys was a name for people
14 who grew up in that neighborhood, in the 5200 block of
15 Windsor Mill Road. Not all 5200 boys were members of MMP.
16 Many of them were, but some were not.

17 But the 5200 boys who were not members of MMP still
18 had to be on Team MMP in order to sell there.

19 So take Malcolm Lashley or Spook. He's a good
20 example. Malcolm Lashley was a 5200 boy who grew up selling
21 drugs in the neighborhood.

22 And his older brother, Melvin Lashley, the one with
23 the M tattoo on his forehead, was a member of MMP. So
24 Malcolm Lashley had a pass because he grew up there and his
25 brother was in the gang.

1 But he also had to play by MMP's rules. You heard a
2 wire call from William Jones to Jacob Bowling, both of whom are
3 MMP members. This was Call TT-2-682.

4 And in that call, Jacob Bowling was with
5 Malcolm Lashley when William Jones called. And you heard Jones
6 say, quote, Tell Spook kick that money out. Get that cash out.
7 Tell Spook I'ma ball his fat ass up when I come home.

8 Excuse my language. It was expected of
9 Malcolm Lashley.

10 By virtue of the fact that he sold drugs there, it was
11 expected that he would kick out money when members of MMP told
12 him to.

13 Now, there was some confusion about a tax, I think.
14 Ms. Whalen asked Malcolm Lashley on cross-examination if he had
15 to pay a tax to sell drugs at the BP.

16 And he said, No. He didn't think of it as a tax.

17 That's kind of a lawyer's term, and he didn't think of
18 it that way. Maybe it wasn't so formal and explicit, but it
19 was a normal cost of doing business. He had to be on Team MMP.
20 He had to work together with the other members. He had to pay
21 money for their bails if they asked him to, and there was
22 always the threat of violence.

23 And a good example of that is Call J-32, which you
24 also heard.

25 And that was a call -- Call J-32 was a call from

1 Dominick Wedlock, Nick, to Melvin Lashley, Spook's older
2 brother, both of whom are MMP members.

3 And you heard Lashley tell Wedlock that someone named
4 Dorian had, quote, burnt T-Roy's sale, meaning that he had
5 stolen a drug customer from T-Roy, Jamal Lockley.

6 And you heard Melvin Lashley say that in response,
7 Bino, Dontray Johnson, also an MMP member, quote, beat the fuck
8 out of him, broke his jaw, and all that, unquote.

9 And they laughed about that. That was commonplace.
10 That was routine. That's what happens when you're not on
11 Team MMP.

12 If you set up shop there without permission, if you
13 sell drugs to someone you're not supposed to sell drugs to, you
14 get beat up, robbed, or killed, just like the cooperators told
15 you.

16 Jamal Lockley and Sydni Frazier are also good
17 examples. They're both 5200 boys. They both grew up selling
18 drugs in the neighborhood. They're both close with Gutta and
19 other members of MMP.

20 They both worked in concert to sell drugs with other
21 members of MMP. They both kicked out money for Bailey's bail
22 when he got locked up. You heard that in wire calls and
23 jail calls. They both were involved in murders for the gang.

24 So Lockley and Frazier are on Team MMP, even though
25 they're not actual members. That's why they're allowed to sell

1 in MMP's territory.

2 Mr. Enzinna used the example of a farmer's market, and
3 I like that example. He said, If you have ten guys with pickup
4 trucks selling their goods at the same farmer's market, that
5 doesn't necessarily mean they're in a conspiracy together.

6 And that's absolutely right. That's a good example.

7 But now imagine that those ten guys band together to
8 obtain their product, to stash their product, to mix it up, to
9 distribute it. They agree to refer customers to one another.
10 They agree to serve as lookouts for one another. They show up
11 in red pickup trucks at the farmer's market armed with guns.
12 They tell all the other farmers, "You're not allowed to sell
13 here anymore unless you do as we say." They kill three farmers
14 who resist. They spray-paint, "Pull up at your own risk" at
15 the market's entrance, and they bail each other out if they get
16 arrested. That's what we have here. That's a conspiracy.

17 I want to talk about the Bangout murder. Mr. Enzinna
18 spent a lot of time talking about the Bangout murder because
19 Bailey is charged with this murder in Count 3, and that means
20 that you do actually need to find beyond a reasonable doubt
21 that Dante Bailey committed this murder.

22 Mr. Enzinna started out by claiming that there were
23 too many different stories about the motive for the murder and
24 no coherent theory, and that's not what I recall.

25 I think your memory recalls, but the witnesses

1 actually gave remarkably consistent testimony on this point.

2 What I recall is that William Banks testified that
3 Bailey and Bangout were on bad terms after they got arrested
4 together in Atlanta. He said Bailey confided in him that he
5 killed Bangout because he heard Bangout was trying to get SP,
6 that's Spence, robbed.

7 Jay Greer testified that Bailey told him that he and
8 Bangout were having a disagreement, and Bangout was talking
9 about taking out the dudes at the top, meaning the higher-ups
10 in the gang.

11 Bailey found out about it, and that's when Bailey
12 decided that Bangout had to be killed. So that's consistent
13 with William Banks.

14 Derran Hankins testified that Bailey told him that
15 Bangout was upset about what happened in Georgia. Hankins
16 actually overheard a phone conversation between Bailey and
17 Bangout in which Bangout was complaining that Bailey had left
18 him high and dry down in Georgia when they got locked up and
19 didn't send him any money.

20 And according to Bailey, Bangout was making threats
21 and saying he was going to shoot up the gas station or
22 something along those lines.

23 So, again, consistent.

24 The witnesses had different perspectives, slightly
25 different details. They used different wording. Maybe Bailey

1 used different wording when talking to each of them.

2 But the sum and substance of their testimony was the
3 same. They all testified that Bailey and Bangout were on bad
4 terms after they got arrested in Atlanta; Bangout was unhappy
5 about how he was being treated; and he started making threats
6 against the gang. In other words, Bangout was showing
7 disloyalty for MMP, and for that reason he had to be killed.
8 And that's what makes it murder in aid of racketeering.

9 So remember Judge Blake instructed you that you can
10 consider evidence that the crime was committed in order to
11 maintain discipline within the enterprise and serve to maintain
12 the defendant's position in the enterprise, and that's exactly
13 what happened here.

14 Bangout was threatening Bailey's authority. He was
15 violating protocol. Killing him served to maintain Bailey's
16 role as the undisputed leader in the gang. You go against the
17 gang, you get murdered.

18 Mr. Enzinna also tried to cast doubt on Jay Greer's
19 testimony about the murder, because he had to. Jay Greer gave
20 damning testimony about Bailey's confession that matched up
21 with the grizzly details of the crime.

22 Greer said Bailey told him he shot Bangout in his
23 face. Bangout tried to run. He tried to crawl up some steps.
24 Bailey shot him two more times. Nizzy and Nick were with him.

25 You saw the autopsy photos. You saw the crime scene

1 photos. You saw the blood-spattered steps. Greer could not
2 have known those details unless he talked to the killer.

3 Mr. Enzinna tried to suggest -- I think he said that
4 Greer came forward with this information after Bailey had been
5 charged with that murder, and that's not true.

6 Remember, you heard that Greer testified in the
7 grand jury in February of 2017. The indictment that you have
8 in front of you was returned June of 2017. Greer came forward
9 with what he knew months before Bailey was charged with the
10 Bangout murder.

11 You didn't see the crime scene photos. He didn't see
12 the other witness statements. He didn't see the phone records
13 with Nizzy and Nick. The only thing Greer knew was what Bailey
14 told him.

15 Mr. Enzinna also challenged the idea that Bailey would
16 tell Jay Greer about this murder even though Greer hadn't
17 gotten his hands dirty for the gang.

18 And I think Greer gave a perfectly reasonable response
19 to that question on cross-examination. He said, "People get
20 locked up; they get confessional."

21 And you know that's true with respect to Dante Bailey.
22 You saw the gang paperwork that was recovered from the
23 Baltimore County Detention Center. Bailey basically wrote down
24 all the incriminating details about how MMP was formed and its
25 criminal purposes. He wrote a screenplay depicting actual

1 crimes that he committed.

2 Bailey gets confessional when he gets locked up.

3 Greer's testimony alone would be damning, but that's
4 just the tip of the iceberg.

5 You have William Banks' testimony that Bailey
6 confessed to him the night of their rap show at Paparazzi in
7 July of 2015, and I'm going to talk more about that later.

8 You have Derran Hankins' testimony that
9 Dominick Wedlock, Nick, told him that Bangout himself was
10 afraid that Bailey was going to have him killed.

11 You have Malcolm Lashley's testimony that Jamal Smith
12 said he dropped Bangout off to Gutta the night of the murder.

13 And these four witnesses are corroborated by hard
14 physical evidence.

15 You know that Bailey used the same gun to commit a
16 shooting at the BP gas station just three nights before the
17 murder. You saw the video footage. You saw Bailey there
18 dressed in all black. You saw the shooter emerge from the
19 driver's seat of Bailey's Lexus. It lined up perfectly with
20 what William Banks told you happened that night -- another
21 example of Bailey firing indiscriminately at whoever he
22 perceives to be a threat to MMP.

23 And, by the way, Mr. Enzinna argued that the firearm
24 examiner's determination is subjective. And Mr. Wagster did
25 tell you that there's an element of subjectivity to it, to be

1 sure. You're matching up microscopic markings.

2 But he also told you that he has several decades of
3 experience. He's conducted thousands of examinations. He's
4 testified as an expert in over 900 cases. And he concluded
5 that the casings from the two scenes were fired with the same
6 gun.

7 His co-examiner, Daniel Lamont, independently
8 concluded that they were fired with the same gun.

9 Two firearms experts, same conclusion.

10 Neither of them knew anything about the case. They
11 just looked at the evidence.

12 You also have Bailey's phone records. 18
13 text messages with Bangout in the hours leading up to his
14 murder, no communication afterwards.

15 Calls to Nizzy, calls to Nick, calls from Nick to Mal,
16 Jamal Smith, corroborating what Jay Greer and Malcolm Lashley
17 told you about who was involved that night.

18 You have the BPD Twitter post -- and this is really
19 significant.

20 11:20 a.m. that same day, the next morning, of
21 February 12th, Dante Bailey is checking up on his handiwork.
22 The victim is still unknown. The location is all the way over
23 in Irvington.

24 It would be one thing if the murder happened in MMP
25 territory during daytime hours, like Mookie's murder. Then you

1 might expect that word would travel quickly and that Bailey
2 might take an interest.

3 But that's not what happened here. The Bangout murder
4 happened on a desolate residential street in the middle of the
5 night in Irvington, miles away from MMP's territory. No
6 eyewitnesses. The victim was unknown. There is no reason for
7 Bailey to take an interest in that murder unless, of course,
8 he's checking to see what police have found.

9 And I think Mr. Enzinna got it wrong. Bailey wasn't
10 checking to see if Bailey -- Bailey wasn't checking to see if
11 Bangout was really dead. He knew Bangout was dead. He was
12 checking to see if the police had found the body. He was
13 checking to see if they had any leads, because that's exactly
14 what a killer does after he commits a murder. He wants to
15 know: Did he leave behind a trail of evidence? Is he going to
16 get caught? What do the police have?

17 And, finally, you have the cell site and the GPS which
18 show Bailey moving south in the direction of the crime scene
19 from 12:23 a.m. to 12:32 a.m. He's just a ten-minute drive
20 from the crime scene at 12:23 -- I'm sorry, at 12:32 a.m. Then
21 he's off the grid.

22 And then he's back to his house at 3901 Princely Way
23 at 1:28 a.m. Same path of flight as the night of the shooting
24 at the BP on February 8th.

25 And Mr. Enzinna asked you, he said, Would you commit a

1 murder if you were on an ankle monitor? And that's not really
2 the right question to ask.

3 The question isn't: Would you commit a murder if you
4 were on an ankle monitor?

5 The question is: Would Dante Bailey, the man who
6 calls himself Almighty, the man whose Instagram handle is
7 bgm_omnipotence, the man who committed a shooting on camera at
8 the BP gas station three nights earlier, the man who wrote a
9 screenplay about his crimes, the man who put out a hit on a
10 cooperating witness while he was pending trial for murder?
11 Would Dante Bailey commit murder while he was on an ankle
12 monitor?

13 And remember, this isn't your average ankle monitor.
14 You heard from Jay Greer.

15 I asked him, Who was Bailey being monitored by?

16 And he said, Nobody.

17 I said, Who was he supposed to be monitored by?

18 And he said, It was a private company called ASAP.

19 And Greer said that he would basically help Bailey
20 circumvent the ankle monitoring. He would make up schedules
21 for Bailey, different clubs and bars, and fax the schedules to
22 ASAP so that Bailey could move around freely at all hours of
23 the night.

24 And he said it worked. He said they never had any
25 interruptions. He never heard about Bailey being violated.

1 So it's easy to see why Bailey might think that no one
2 was paying attention to where he was.

3 And, as it turns out, nobody was. There's this
4 unexplained gap starting at 12:32 a.m. that night.

5 And Mr. Enzinna pointed out that there's a column in
6 the records. This is -- you have this in evidence as MISC-12.
7 There's a column in the records that says [reading]: Strap
8 tamper detected.

9 And you said the letter N throughout. And I think
10 it's reasonable to assume that that means Bailey didn't try to
11 remove the ankle bracelet. I think that's fair.

12 But there are also a whole bunch of other columns.
13 For instance, you'll see that there's a column called "battery
14 level." And that makes sense because the thing is
15 battery-powered, so you have to keep it charged in order for it
16 to work.

17 And there are some numbers in that column, and they
18 range from 376 to 396.

19 And you can see that during the period in question,
20 from 12:25 a.m. to 12:32 a.m. on February 12th of 2015, the
21 battery level is down at 376, 377.

22 So that raises the question: Did he let it run out of
23 battery?

24 And we don't know. We don't know the answer. But the
25 point is: There are logical reasons why he might not have been

1 concerned about the ankle monitor when he murdered Bangout.

2 Finally, I want to say something about aiding and
3 abetting.

4 Judge Blake instructed you that if you find that
5 Dante Bailey aided and abetted the murder, meaning that he
6 willfully and knowingly sought by some act to help the crime
7 succeed, then you should find him guilty of Count 3.

8 And I want to be clear about this. The overwhelming
9 evidence demonstrates that Bailey killed Bangout himself
10 personally. This is just an alternative theory of liability.

11 Even if you're not all in agreement about who pulled
12 the trigger, if you unanimously conclude that Bailey ordered
13 the murder or that he supplied the gun to the shooter to commit
14 the murder, then he's just as guilty. It's just another way
15 that you can find him guilty. That's all that is.

16 I'm going to move on to Randy Banks.

17 Mr. Sardelli described the Government's case as,
18 quote, a massive overreach. I think he used that term half a
19 dozen times.

20 He stood up here and he told you there is no evidence
21 that his client was part of a gang conspiracy. No calls. No
22 texts. No social media.

23 Maybe Mr. Sardelli sat through a different trial than
24 I did.

25 I heard five witnesses testify that Randy Banks was a

1 high-ranking member of MMP and the leader of the
2 Gwynn Oak-Liberty Heights drug shop.

3 I saw photo after photo of Randy Banks making MMP gang
4 signs with other MMP members.

5 I'm going to flip through a few here quickly.

6 I saw drug O sheets from Bailey's iCloud account
7 referencing Dirt.

8 We talked about the photo of Randy Banks making an MMP
9 gang sign with Wedlock while standing in front of their
10 crack cocaine cooking operation.

11 We saw MMP gang paperwork seized from several
12 different locations describing Dirt as a leader in Gwynn Oak
13 and the boss of finance.

14 And Mr. Sardelli asked: Why should my client be held
15 accountable for something Bailey wrote down somewhere?

16 And that's not really the point. The point isn't to
17 look at the gang paperwork by itself in isolation. The point
18 is that it's compelling corroboration for what all the
19 witnesses told you. They didn't know what Bailey was going to
20 write down in his notebook or upload to his iCloud account.

21 We listened to probably a dozen jail calls where
22 members of MMP talked about Dirt as the money man, the guy they
23 went to for bail money or lawyer money or commissary money when
24 they got locked up.

25 And it's true, of course, that bailing someone out of

1 jail is not a crime.

2 But when there's a consistent pattern of Randy Banks
3 supplying money for members of MMP after they've been arrested
4 for crimes committed in furtherance of the gang, that's pretty
5 good evidence that he's part of the conspiracy.

6 Remember the jail call from Dontray Johnson, or Bino,
7 instructing his female associate to collect money from Dirt.
8 That was five days after Johnson had killed Nutty B for
9 refusing to pay MMP gang dues. That timing tells you
10 something.

11 One of the most damning pieces of evidence against
12 Dirt is the video of the Snook shooting at club Mirage. And
13 Mr. Sardelli, I don't think he even mentioned this video.
14 Maybe he was hoping you'd forget about it.

15 But you saw Randy Banks walk up to club Mirage with
16 the other leaders of the gang: Dante Bailey, Dontray Johnson,
17 William Banks, Devon Dent, and others.

18 You saw that Johnson was even wearing a red shirt that
19 said "Mobb Squad" on it, broadcasting his membership in MMP.

20 Dirt was standing right there with his MMP
21 confederates when Trouble gunned down Snook on Dante Bailey's
22 orders.

23 And in case there was any doubt about his complicity,
24 Bailey wrote about it in his screenplay. He and Dirt talked
25 about making it look like 4th of July. Snook was a rat, and he

1 had to be killed.

2 Dirt was in on it. That's just one of the ways you
3 know that murder and witness tampering were foreseeable to him.

4 Here's another way you know that murder was
5 foreseeable to Randy Banks.

6 Wire Call B-4104, Mr. Sardelli talked at length about
7 this wire call. And I'm really glad he did, because I noticed
8 something that I hadn't noticed before.

9 Mr. Sardelli pointed out that this call, this wire
10 call, was on July 25th of 2015, which was the day after the
11 Paparazzi show that Bailey and William Banks performed at.

12 And they're talking about leaving the club and Fish
13 having a drunk episode. And remember, Mr. Sardelli put the
14 flyer of the show up on the screen for you.

15 So why is that significant? It took me a while to
16 realize it, but think back to what Trouble told you about that
17 show. He told you that's the night he learned that Bailey had
18 killed Bangout. He told you he was with Gutta and Dirt leaving
19 the show when Bailey told him about the murder.

20 That wire call is incredibly corroborative of what
21 William Banks told you. Dirt was there when Bailey told him
22 that he killed Bangout for violating MMP rules.

23 Trouble couldn't have known about that call. The
24 Government didn't even realize its significance. It
25 corroborates Trouble, and it also corroborates Jay Greer.

1 Jay Greer testified -- I asked Jay Greer, Did Gutta
2 tell you whether anyone else knew about him killing Bangout?

3 And he said, Yes.

4 He said, Dirt knew too.

5 So there's another way you know that murder was
6 foreseeable to Randy Banks.

7 The most obvious way you know murder was foreseeable
8 to him was the testimony of Devin Ferguson.

9 Ferguson was a member of BGF, a rival gang. Ferguson
10 testified that after Mookie was killed, Dirt showed up at Los's
11 candlelight vigil, armed with a gun, and threatened to kill
12 Ferguson and every member of the gang by the end of summer.

13 And you heard about some of the murders and shootings
14 that took place after that threat.

15 So you heard about Eastside. Eastside was a member of
16 MMP who was killed in summer of 2016.

17 And William Banks testified that the members of the
18 Gwynn Oak-Liberty Heights drug shop, they found out who had
19 killed Mookie. They found out it was this guy named Ro-Ro.
20 And Eastside, who was a member of MMP, was friends with Ro-Ro,
21 and he was protecting him.

22 William Banks testified Eastside wouldn't give up the
23 whereabouts of Mookie's killer; or, in his words, Eastside
24 wouldn't tell the homies where Ro-Ro was. So they killed him.

25 And you heard a wire call between Dante Bailey and

1 Jamal Lockley that confirmed what Trouble told you. This was
2 Call TT-3-4106.

3 Lockley said [reading]: Eastside got killed because
4 he was playing the 50/50 game.

5 That means he was playing both sides of the fence.

6 And Bailey confirmed that Eastside's death was
7 planned. He said, That was already said and done when Fat Man
8 came home.

9 That's a reference to Dirt.

10 Another way you know murder was foreseeable.

11 And on the subject of Mookie, Mr. Sardelli argued
12 that, well, Mookie was Randy Banks' cousin; so, of course, he
13 was upset when his cousin was killed. It wasn't a gang thing;
14 it was a family thing.

15 I'm not sure it's in evidence that Mookie was
16 Randy Banks' cousin, but maybe it is.

17 Regardless, there cannot truly be any question in your
18 mind that Dirt's hunger to avenge was about MMP, not family.

19 Remember the bizarre video you saw of Mookie's
20 funeral, and this is a picture from Mookie's funeral.

21 Remember the bizarre video you saw where they draped
22 the MMP banner over his casket like they were performing
23 military honors. They co-opted his funeral and made it into a
24 gang ceremony. It wasn't about family. It was about MMP.

25 Threatening to kill every member of a rival gang,

1 that's gang vengeance. That's not family bereavement.

2 And, by the way, jumping around a bit, Devin Ferguson
3 also told you about Dirt being involved in extortion.

4 If you remember, Ferguson testified that in 2012, he
5 tried to sell drugs at Liberty Heights and Gwynn Oak; and Dirt
6 confronted him and said, You can't sell around here unless you
7 pay a 10 percent tax.

8 Basically, get off my turf.

9 And Ferguson, he didn't want to pay the tax, so he
10 went elsewhere.

11 But that's extortion, another racketeering act that
12 was foreseeable to Dirt because he committed it himself.

13 Mr. Sardelli faulted the Government for not
14 researching whether there were any other "Dirts" in the city of
15 Baltimore.

16 And I have to admit, I find it admirable that
17 Mr. Sardelli persisted with this theory of mistaken identity,
18 despite the fact that he struck out with every single witness.

19 Every single witness he asked said they hadn't heard
20 of a different Dirt. They all pointed at Randy Banks and said,
21 "That's Dirt."

22 Mr. Sardelli also asked -- he asked, Where did all the
23 money go?

24 And I think the evidence before you is that some of it
25 went back into drugs.

1 If you think about all the drugs that were seized, the
2 600 grams of heroin, that's \$60,000 worth of heroin right
3 there; the 80,000 seized from Anderson at the airport; the
4 \$26,000 seized from Spence.

5 But you also heard about --

6 **MS. AMATO:** Objection.

7 **MS. HOFFMAN:** -- how the gang operated.

8 (Interruption.)

9 **THE COURT:** I'm sorry. Stop, please.

10 I will just remind the jury this is not evidence.

11 This is argument by counsel only.

12 **MS. HOFFMAN:** You heard about how the gang operated
13 and the lifestyle they led. You heard about Dirt's
14 Mercedes-Benz. You heard he had multiple cars and multiple
15 houses.

16 You saw how the defendants dressed. Diamond chains.
17 You heard about casinos and Bentleys. It's not hard to imagine
18 where the money went.

19 The whole thrust of Mr. Sardelli's argument -- and
20 some of the other defense attorneys did this too -- was to
21 criticize the investigation, to point to the things that the
22 Government didn't do.

23 The Government didn't call a rap expert. We didn't
24 call a gang expert. We didn't call the other 40 people at
25 Los's candlelight vigil.

1 You heard that kind of argument from Mr. Trainor, too.
2 He faulted the Government for not calling William Banks'
3 handler, Brad Hood.

4 And if you remember, William Banks testified that he
5 had three or four different handlers over time.

6 Mr. Hazlehurst faulted us for not calling Kane and not
7 calling Konan. This trial might have gone on for another two
8 or three weeks if we had called all of those people. I think
9 you're probably glad we didn't make it into an eight- or
10 nine-week trial.

11 More importantly, Judge Blake instructed you that the
12 Government is not required to call any particular witnesses or
13 use any particular investigative techniques. That's not the
14 jury's concern. Your job is to focus on the evidence that you
15 do have in front of you and whether it proves the defendants
16 guilty beyond a reasonable doubt.

17 So I'm going to move on to Jamal Lockley. Mr. Trainor
18 spent a lot of time talking about how Jamal Lockley was not a
19 member of MMP. And if you remember, I told you that in my
20 opening statement.

21 Lockley wasn't a member of MMP. But that doesn't
22 matter.

23 The Government doesn't have to prove that the
24 defendants were members of MMP; just that they were members of
25 the conspiracy, meaning that they agreed to participate in the

1 gang's affairs through a pattern of racketeering activity.

2 Lockley was every bit as much a part of that
3 conspiracy as the other defendants. He worked with other MMP
4 members to sell drugs in MMP's territory: Dante Bailey,
5 Corloyd Anderson, Adrian Jamal Spence, Shakeen Davis. You
6 heard wire calls with all of them.

7 He put up money for Dante Bailey's bail when he was
8 incarcerated. He was in call after call with Bailey and others
9 discussing gang business.

10 So you heard the call of Dwight Jenkins where they
11 talk about -- Jenkins tells them about getting into a fight
12 with Rick. And Lockley says, Let's put yo together.

13 You heard the call with Bailey where they talk about
14 how Eastside was killed for playing the 50/50.

15 You heard the call with Bailey where they conspired to
16 kill Trouble because he's cooperating against the gang.

17 Lockley was also the getaway driver for a retaliatory
18 murder committed by Bailey, the Anthony Hornes murder. And I'm
19 going to come back to that in a minute.

20 There can't really be any question that Lockley was
21 steeped in the gang's affairs. And he benefited from the
22 violence committed by other members to silence witnesses and
23 defend MMP's drug territory because that's how he made his
24 money.

25 Remember, Ms. Perry told you, a team for money and a

1 team for murder.

2 Day in and day out, Lockley sold heroin and cocaine in
3 MMP's territory around the 5200 block of Windsor Mill Road, and
4 he benefited from the violence you heard about.

5 He doesn't get a pass just because he didn't jump
6 through the formal hoops of becoming a member of the gang. You
7 don't have to be a member of MMP to be a member of the
8 conspiracy, and there's good reason for the law being that way.

9 You wouldn't want people who do dirty work for the
10 gang to be able to shield themselves from accountability just
11 because they didn't go to a formal initiation ceremony.

12 You don't need to have an MMP tattoo. You don't have
13 to have an Instagram account.

14 What matters is that Lockley, just like the other four
15 defendants, knowingly and intentionally participated in MMP's
16 affairs through a pattern of criminal activity.

17 I want to talk about Count 10, which charges Lockley
18 with distribution of crack cocaine based on the March 10th,
19 2016, controlled purchase by William Banks and a female CI.

20 Mr. Trainor has argued that you can't trust that these
21 drugs were actually purchased from Lockley because this was
22 during William Banks' unreliable period, and the video of the
23 controlled purchase doesn't show the actual drugs in Lockley's
24 hand.

25 And that's a clever argument, but it doesn't hold up.

1 It doesn't hold up because of what Agent Moore told
2 you about how this controlled purchase went down. Banks and
3 the female CI were searched beforehand. They were searched
4 afterward. The entire transaction was surveilled by
5 law enforcement officers.

6 But more importantly, it doesn't hold up because of
7 what the video actually shows. You see Banks and the female CI
8 pull up to meet Lockley.

9 You see the female CI hand Lockley the money.

10 **DEFENDANT LOCKLEY:** Where?

11 **MS. HOFFMAN:** There's the money in the CI's hand.

12 And you hear them have a conversation about cooking
13 crack cocaine. And remember we were having some audio problems
14 on the day that we played the video.

15 And William Banks couldn't hear what was being said
16 from the witness stand. So I want to watch the video again
17 now.

18 (Video was played but not reported.)

19 **MS. HOFFMAN:** So Banks says, It's six; right?

20 He's referring to the \$600.

21 Lockley says, Uh-huh.

22 Then you see the female CI hand over the money.

23 Lockley says, You got any complaints, baby, please let
24 Trouble know, 'cause he going to let me know and we going to
25 fix any problems that you got.

1 You hear Lockley counting out the money, making sure
2 it's \$600.

3 Lockley says, But you ain't gonna have none, though.
4 I'm just letting you know, though, that's how we rock.

5 The female CI says, Okay.

6 Then Trouble says to the CI, to the female CI, So you
7 don't mind gettin' it like that every time; right?

8 He's talking to the female CI.

9 And she says, No. I can get it like that.

10 And then Lockley says, You know how to cook?

11 That's a reference to cooking powder into
12 crack cocaine.

13 And she says, No. I want it like that.

14 And Lockley says, Like that? All right.

15 So let's go back and watch it one more time.

16 (Video was played but not reported.)

17 **MS. HOFFMAN:** She didn't just buy \$600 of baked goods
18 from Lockley. They're not talking about cooking brownies.
19 They're talking about crack cocaine.

20 He's asking her whether she always wants it as crack
21 or whether she wants it as powder so that she can cook it into
22 crack herself. And she's telling him she doesn't know how to
23 cook; she wants it precooked into crack.

24 Now, Mr. Trainor pointed out that when he was asked
25 about this controlled buy, William Banks said he thought it was

1 an eight ball of crack that he purchased from T-Roy.

2 And you heard the chemist testify that he tested the
3 drugs that were purchased that day. And it was -- actually, it
4 was more than that. It was closer to 12 grams of crack.

5 So Trouble got it wrong. He couldn't remember how
6 much it was, and he guessed conservatively. He said, I think
7 an eight ball.

8 And that's to his credit; right? He didn't try to
9 exaggerate. He guessed conservatively. That's exactly what
10 you want from a cooperator. It was over three years ago. He
11 erred on the side of underestimating. That's exactly what he
12 should have done.

13 So how does this controlled buy fit into the bigger
14 picture? It's another example of the defense attorneys taking
15 it ten levels too far.

16 Did William Banks commit terrible crimes?

17 You bet he did.

18 Was he a crummy CI?

19 He was.

20 Did he plant evidence?

21 Absolutely not.

22 Jamal Lockley sold him 12 grams of crack cocaine, and
23 you know that because it's on video.

24 And time after time what William Banks told you has
25 been confirmed by hard evidence. The video footage, the wire

1 calls, the jail calls, the social media posts.

2 So let's move on to something else that William Banks
3 told you about, which is the murder of Anthony Hornes.

4 Now, Mr. Trainor asked you to consider this murder as
5 a charged murder, and that's exactly what you're not supposed
6 to do.

7 Lockley is not charged with this murder, nor is
8 Bailey. We don't have to prove it beyond a reasonable doubt.

9 We did prove it, but we don't have to. It's just
10 another way of showing that murder was a foreseeable
11 racketeering activity.

12 Mr. Trainor said you have to believe William Banks to
13 believe Lockley was involved in this murder.

14 And that's fair. You do.

15 But that doesn't mean we're asking you to take him at
16 his word alone. We're not.

17 What Trouble told you about this murder is
18 corroborated in significant ways.

19 First, there's the cell site location mapping. When
20 Mr. Trainor asks you to discard that totally, he says, Lockley
21 could have just been in the area to mourn Mookie.

22 And that's true. That's fair.

23 But it's still highly corroborative of Trouble that
24 his phone, Bailey's phone, and Lockley's phone are all pinging
25 right in the area of the murder around the time of the murder,

1 especially given that this isn't Lockley's normal turf.

2 This is Gwynn Oak and Liberty Heights. Lockley's turf
3 is 5200 Windsor Mill.

4 So it's highly unlikely that William Banks took a
5 random, lucky guess on this and all three cell phones happened
6 to be pinging right there at the time of the murder.

7 Then you have the jail call. This was Call J-56. And
8 Mr. Trainor didn't talk about this. But the day after the
9 murder, MMP member Darius Stepney, Conehead, calls a
10 co-conspirator and they talk about Mookie's murder. And
11 Stepney asks if they retaliated.

12 He said, They want some Snook out that way. Where
13 Gutta and them at?

14 And the co-conspirator says, Yeah, they did retaliate.

15 He says, quote, I ain't gonna lie. Something already
16 happened about that.

17 And then he reads from the newspaper article about
18 Anthony Hornes -- about Anthony Hornes getting murdered. That
19 jail call is also highly corroborative of Trouble. This was
20 Gutta's doing, and everyone knew it.

21 Finally, the details of the crime.

22 Trouble told you that Gutta shot Anthony Hornes once
23 in the head or the face at close range, and that's exactly what
24 you heard from the Medical Examiner.

25 Now, Mr. Trainor pointed out that Trouble has a

1 history of lying. He lied about the Mirage shooting, and he
2 didn't own up to that shooting until he was confronted with the
3 video footage. And that's true.

4 But think how different this situation is.

5 Mr. Trainor told you there was no video of this
6 murder. There were no cameras in the area. There were no
7 eyewitnesses. There were no fingerprints, no DNA, no gun
8 recovered. The Homicide detective told you he had no leads and
9 no suspects.

10 There was absolutely nothing tying Trouble to this
11 murder scene, so what possible incentive would he have to lie
12 and implicate himself in this murder if he wasn't really there?
13 It doesn't make any sense.

14 He could have kept quiet. No one ever would have been
15 the wiser, but he put himself there.

16 He told you, I was there even though I wasn't supposed
17 to be there. I was a CI at the time. I got in that car with
18 Gutta and T-Roy. I knew they were looking to retaliate. I got
19 in that car, and I sat there and watched as Gutta killed
20 someone.

21 There's no reason for him to implicate himself in that
22 murder unless he was really there.

23 And what would Trouble's incentive be to put Lockley
24 at the scene if he wasn't really the getaway driver? Why
25 Lockley? That doesn't make sense either.

1 Mr. Trainor faulted us for not calling Trouble's
2 handler, Brad Hood. And I talked about this earlier.

3 It's true. We could have called his handler. We
4 could have called all four of his handlers. We didn't do that.

5 But you did hear the testimony about the text
6 messages, and I think Ms. Whalen even read from some of them on
7 cross-examination.

8 So now fast-forward to the August 19th, 2016 jail call
9 from Bailey to Lockley, the one where they conspired to kill
10 Trouble for being a CI. And this is Call J-65.

11 Mr. Trainor tried to argue that Lockley was distracted
12 in this call. That's not what I heard.

13 Maybe he was distracted in the beginning. But as soon
14 as Bailey said, Trouble told on Spittle, that Trouble was a CI,
15 Lockley snapped to attention.

16 You heard him. He sounded incredulous at first. He
17 said, What?

18 He said it again, What?

19 And then he immediately called Granny, presumably
20 Spittle's grandmother, to confirm.

21 That's not someone who's distracted. That's someone
22 who cares deeply. Why does Lockley care so much?

23 He cares because of Anthony Hornes. He cares because
24 of the March 10th controlled buy. It dawns on him, if Trouble
25 is a CI, then I'm in deep, deep trouble.

1 So then Bailey tells Lockley to send Trouble to
2 M-Easy, and I don't think anyone has really disputed what this
3 means.

4 M-Easy is a known enforcer for the gang. He has the
5 lightning bolt tattoo on his face. "Send him to M-Easy" means
6 "have M-Easy kill him."

7 And Lockley says in response, Say no more.

8 Now, Mr. Trainor argues that "say no more" is just a
9 meaningless expression; Lockley uses it all the time to get off
10 the phone. I don't think that's what the evidence shows.

11 First of all, Lockley doesn't get off the phone after
12 he says "say no more." The call continues. They continue to
13 discuss killing Trouble.

14 Michael Singer, Blizz, says he doesn't want it to go
15 down in the studio because he's worried about his contract with
16 the owners. They discuss options. They talk for several more
17 minutes.

18 So "say no more" isn't Lockley trying to get off the
19 phone. "Say no more" is confirmation.

20 You heard a lot of wire calls where Lockley uses this
21 expression.

22 A drug customer will say something like, I'm on my way
23 down and I want two.

24 And Lockley will say, Say no more.

25 Dwight Jenkins tells Lockley he got in a fight with

1 Rick. And Lockley says, Say no more. We going to put yo
2 together.

3 That's TT-1-1202. "Say no more" is affirmation. It's
4 a way of saying, "Okay. Understood. I got you."

5 And remember, right after Bailey told Lockley to send
6 Trouble to M-Easy, right after Lockley says, "Say no more,"
7 they start talking about the murder of Ricardo Johnson,
8 Uncle Rick.

9 Bailey immediately after that says, I heard about your
10 uncle. He was trying to catch the Light Rail.

11 And they all burst out laughing. They're talking
12 about another rumored snitch who got what was coming to him.

13 The juxtaposition is telling.

14 Send Trouble to M-Easy, then Uncle Rick.

15 Same transgression: Cooperating with law enforcement.

16 Same outcome: Murder.

17 Mr. Trainor also argued, well, nothing ever happened
18 to Trouble. They couldn't have really been planning to kill
19 Trouble because nothing ever happened to him. And I think
20 that's a red herring.

21 The call J-65 happened on August 19th of 2016. You
22 heard that Trouble was arrested on August 26th of 2016, one
23 week later.

24 So the fact that they didn't successfully murder
25 Trouble within one week doesn't mean they weren't planning to

1 kill him. They absolutely were. This was a conspiracy to
2 murder a witness against a gang. There's no other way to look
3 at it.

4 And that brings me to a related point. Mr. Trainor
5 said -- he said, There's no evidence Lockley ever read the MMP
6 gang paperwork or the seven mob mandates.

7 And I actually think that's fair. I think he's right
8 on that.

9 As to the other defendants, we know murder was
10 foreseeable to them because they took the oath. They read the
11 gang paperwork.

12 But Lockley wasn't a member of MMP, so we can't assume
13 that he read the gang paperwork. We can't check the boxes for
14 him just based on membership alone.

15 It ends up not mattering, though, because it's clear
16 in a dozen other ways that murder and witness tampering and
17 witness retaliation were foreseeable to Lockley. It's clear
18 from the August 19th call. It's clear from the call with
19 Jenkins about putting Rick together. It's clear from his
20 participation in the Hornes murder.

21 One final note on Lockley. Mr. Trainor pointed out
22 that they didn't find any drugs or drug paraphernalia at
23 Lockley's residence when they executed the search warrant in
24 September of 2016.

25 But you heard it's not unusual for drug dealers to

1 stash drugs off-site rather than keeping them in their homes.

2 So that's not really that surprising.

3 More importantly, what they did find in Lockley's home
4 was the cell phone, the 7780 number that was the subject of the
5 wiretap and that was filled with hundreds, if not thousands, of
6 drug texts.

7 So now we come to Corloyd Anderson, Bo.

8 Ms. Amato wants you to believe that Bo was both the
9 luckiest man in the world and the unluckiest man in the world.
10 He's the luckiest man in the world because he routinely wins
11 large cash payouts at casinos.

12 He's the unluckiest man in the world because he's been
13 tragically confused with someone named C-Bo or Bowl who deals
14 drugs and slings guns, and he was somehow manipulated into
15 confessing to a gun that was left in some rented furniture at
16 his house.

17 I don't think I need to spend too long on the mistaken
18 identity theory. Every witness who came in here pointed at
19 Corloyd Anderson and said, That's Bo.

20 That's the Bo that was a boss of MMP. That's the Bo
21 who had a set of gold teeth with M's. That's the Bo who
22 supplied large volumes of heroin to members of the gang.
23 That's the Bo who carried guns. That's the Bo who supplied the
24 gun that Bino used to kill Antoine Ellis and disposed of it
25 afterwards.

1 Now, Ms. Amato was right that there were some
2 inconsistencies in the witness testimony as far as Anderson's
3 membership in the gang. William Banks and Jay Greer testified
4 that Bo was a high-ranking member of MMP, a boss.

5 Malcolm Lashley and Derran Hankins said they didn't
6 know Anderson to be a member.

7 And that's not really that surprising. They all had
8 different perspectives, different bases of knowledge.

9 Banks and Greer were very close to Dante Bailey.
10 Banks was a ranking member of MMP himself. Greer lived in
11 Bailey's house and was recruited to join the gang. They knew
12 who was in the gang and who was out.

13 Lashley and Hankins were further out. They told you
14 they didn't know all the inner workings of the gang or the rank
15 structure.

16 So, no, their testimony doesn't line up perfectly, and
17 that's normal. That's how you know they're not being coached.
18 They're not getting their stories straight. They're each
19 telling it from their own perspective.

20 But the evidence shows that Banks and Greer had it
21 right because of what the gang paperwork says.

22 Remember, Greer told you that Gutta sometimes referred
23 to Bo as Fat Tony. And we saw that in Bailey's MMP slideshows
24 in his iCloud account, there's a photo of Anderson with the
25 label "Fat Tony" and "Boss."

1 William Banks told you that Gutta sometimes referred
2 to Bo as Jim. We saw gang paperwork recovered from Bailey's
3 house in July of 2015 where he identifies Jim as a boss of
4 5200. That's GP-4-A.

5 Also in the screenplay recovered from Bailey's
6 residence in May of 2016, Bailey refers to Bino, Spittle, and
7 Bo as bosses of the gang.

8 Bailey also repeatedly refers to Bo as someone who
9 supplies heroin in the 5200 block of Windsor Mill Road.

10 And, again, we're not asking you to find Anderson
11 guilty based on these writings alone, but they do corroborate
12 Banks and Greer as to his membership in the gang.

13 Ms. Amato talked about the surveillance footage of
14 Anderson, Dante Bailey, and William Banks on October 18th of
15 2012. And she showed the camera panned to Norma Jean's, and
16 she said this was just guys being guys going to a strip club.

17 And I don't think there's ever been any dispute,
18 actually, that they were going to a strip club that night.
19 That's, in fact, exactly what William Banks testified to.

20 It wasn't a gang meeting, but that doesn't change the
21 fact that three days after the Snook shooting at club Mirage,
22 Anderson meets up with Dante Bailey and William Banks and Banks
23 is wearing an MMP sweatshirt. It literally says
24 "Murdaland Mafia" and "MMP" on it.

25 So that's why we showed you that clip. Is it proof

1 that Anderson was a member? No, of course not. But it's
2 evidence of Anderson's knowledge. It's hard to argue that he
3 was oblivious to what MMP was, given those circumstances.

4 Another point on the witness testimony,
5 Ms. Anderson [sic] wants to have it both ways -- I'm sorry.

6 Ms. Amato wants to have it both ways. She wants you
7 to believe that Malcolm Lashley and Derran -- she wants you to
8 believe Malcolm Lashley and Derran Hankins when they said they
9 didn't know Bo to be a member of MMP, but she wants you not to
10 believe them when they tell you that Bo supplied heroin to
11 members of the gang. And that's not really reasonable. You
12 can't slice it that finely.

13 All of the witnesses, all of them knew that Bo was a
14 large-scale heroin supplier for the gang. And if you believe
15 that, then he was a member of the conspiracy.

16 Even if you don't believe that Anderson was a member
17 of the gang -- and he was -- but even if you're not sure, he
18 was undoubtedly a member of the conspiracy.

19 Now, the airport seizure, I want to talk about that
20 briefly.

21 I do think it's important to consider the facts
22 carefully.

23 Corloyd Anderson said --

24 **MS. AMATO:** Your Honor, I'm going to object, again,
25 for the record.

1 **THE COURT:** Can I see counsel at the bench.

2 (Bench conference on the record:

3 **THE COURT:** What is the basis of the objection?

4 **MS. AMATO:** So Government counsel and I had agreed
5 that -- the seizure, the word of the seizure, okay, that there
6 was actual money seized from the airport.

7 **MS. HOFFMAN:** Oh, yeah.

8 **MS. AMATO:** So one thing is that they stopped the
9 uncle and there was a question about the money, and Anderson
10 came and he brought his proof.

11 But to actually say that it was taken, that's where
12 the problem is because we -- I didn't move forward with the
13 proof that I have that he actually ultimately received the
14 money.

15 And we had agreed that they would not say that the
16 money was taken so that I wouldn't introduce that the money was
17 returned. So that's where my problem is.

18 **MS. HOFFMAN:** I wasn't planning to say anything about
19 the money being taken.

20 **THE COURT:** Okay.

21 **MS. HOFFMAN:** I wasn't planning to say anything about
22 the money being taken.

23 **THE COURT:** Is the objection to the use of the word
24 "seizure"?

25 **MS. AMATO:** Yes.

1 **THE COURT:** Okay. If you could clarify -- I mean, it
2 was temporarily seized.

3 **MS. AMATO:** Temporarily. Exactly. Right.

4 **THE COURT:** But returned.

5 So please make that clear.

6 **MS. AMATO:** Thank you.

7 **THE COURT:** Thank you.)

8 (Bench conference concluded.)

9 **THE COURT:** Just clarify the reference, Ms. Hoffman.

10 **MS. HOFFMAN:** I wanted to talk about the stop at
11 BWI Airport in which money was temporarily seized. And I want
12 to consider the facts carefully.

13 So Corloyd Anderson sends \$80,000 in cash with
14 Charles Milton Banks to Texas, a border state. It's in random
15 denominations, stuffed in U.S. envelopes -- U.S. postal
16 envelopes.

17 And when the cash is found, Charles Milton Banks
18 claims he's going to Vegas. His airplane ticket is to Texas.

19 Anderson shows up and says, Hey, there's been a big
20 misunderstanding. I'm sending the cash with my uncle to Texas
21 to a car auction, and he shows a car auction pass and some
22 W-2Gs showing that he won \$70,000 at a casino two months
23 earlier.

24 So let's consider the plausibility of that theory.

25 First, even if Anderson does have a car auction pass,

1 why would he purchase cars at auction in Texas if he lives and
2 works in Maryland? Wouldn't he lose his entire investment in
3 the cost of flying to Texas and shipping the cars back to
4 Maryland to sell?

5 Second, if he was planning to buy cars at auction with
6 his auction pass, why was he sending the money with his uncle?
7 His uncle didn't show a car auction pass, so how was that
8 supposed to work?

9 Third, why would his uncle say he was going to Vegas?

10 And, fourth, last time I checked, casinos don't give
11 out cash in random denominations. It's in neat, crisp bills.

12 **DEFENDANT ANDERSON:** Tell 'em I got the money back.

13 **THE COURT:** All right. All right. All right.

14 **MS. AMATO:** Objection, Your Honor.

15 **THE COURT:** The phrase was "temporary seizure." The
16 money was returned. It is the jury's recollection of the
17 evidence that controls. Argument is not evidence.

18 **MS. HOFFMAN:** You saw the photographs of Anderson's
19 auto shop. You saw that it was a big, mostly empty property
20 with maybe one car on the lot, maybe two. No cars in the bay
21 being serviced. Maybe one small garden hose in the corner.
22 How was he washing all those cars with one small garden hose?
23 It's not exactly what you'd expect of an auto shop that was
24 generating a lot of income.

25 So now we come to the wire calls with Lockley. And

1 Ms. Amato had some arguments. She said maybe Anderson was
2 supplying Lockley with cars to sell or maybe he was supplying
3 him with T-shirts to sell, something about T-shirts.

4 But this is another situation where context matters.
5 You can't look at the calls between Anderson and Lockley in
6 isolation, in a vacuum, because you know what Lockley was
7 selling in the summer of 2016.

8 You heard it in call after call after call. You saw
9 it in text after text after text. Lockley was selling drugs.
10 He was selling heroin and crack cocaine. That is the one and
11 only thing that Lockley was selling.

12 That's how you know that when Lockley says, "We gave
13 you thirty-four fifty. It was thirty-five, and I took fifty
14 out for Charlie," he's not talking about a car. He's not
15 talking about T-shirts.

16 He's talking about heroin. He's talking about paying
17 his hitter, Charlie, for his work and giving the rest of what
18 he owes to Anderson.

19 And when Lockley says, "Did you get that other girl?"
20 he's not talking about a literal girl. He's talking about
21 cocaine.

22 And when Anderson gets mad at Lockley for getting so
23 dumb over the phone, he's not worried about law enforcement
24 figuring out that he's selling cars or selling T-shirts. He's
25 worried about getting caught selling heroin. He's cautious.

1 He's more cautious than Lockley.

2 The gun in the mattress.

3 The gun in the mattress was not left behind in rented
4 furniture. It didn't belong to one of the females in the
5 house.

6 It was Anderson's gun. That's why he was able to
7 describe it. That's why he was able to tell Agent Aanonsen
8 where it was before it was even found. That's why he confessed
9 to it. There's no trick. There's no big aha moment, it was
10 his gun, and he admitted to it.

11 The interview couldn't have been more polite. You saw
12 it. Agent Aanonsen couldn't have been more accommodating.
13 Anderson admitted it was his gun, and he admitted to dealing
14 heroin.

15 And we don't know why Anderson made the decision he
16 did, but he did. Maybe he thought they'd let him go. I don't
17 know. But it was his gun, and he did deal heroin.

18 So, finally, we come to Shakeen Davis, Creams, and I'm
19 nearing the end.

20 Mr. Hazlehurst argued that the Government put
21 Mr. Davis in that chair. And that's not right. Mr. Davis put
22 himself in that chair.

23 He put himself in that chair by joining MMP, by
24 pedaling its drugs, by toting guns, by firing those guns at
25 rivals of the gang.

1 You don't need witnesses to tell you that Creams was
2 in MMP. He told you himself with social media post after
3 social media post.

4 And I'm going to show you a couple here.

5 Here's one [reading]: 5-Deuce boss. Death before
6 dishonor. Omertà code.

7 Here's another [reading]: Have a mob meeting with a
8 mob boss.

9 You saw others where Davis was making the M sign
10 (indicating) for MMP and saying, Murdaland Mafia, the world is
11 ours.

12 I don't know how you walk away from that.

13 Mr. Hazlehurst faulted the Government for only -- only picking
14 out seven social media posts that relate to MMP. I don't know
15 how many you need before you can conclude that he was actually
16 a member of MMP.

17 Mr. Hazlehurst said that William Banks was
18 inconsistent in identifying Creams as a member of MMP, and
19 that's not how I recalled the testimony.

20 I recall -- your memory controls -- I recall
21 William Banks being definitive about the fact that Creams was
22 MMP. He said he was a 5200 boy.

23 But as you learned, those two things weren't mutually
24 exclusively. You could be a 5200 boy and also be a member of
25 MMP.

1 Mr. Hazlehurst pointed out that Jay Greer testified --
2 he was asked whether Creams worked with anyone else selling
3 drugs.

4 And he said, No.

5 And that's fine. I'm sure that's how Jay Greer saw
6 it. Maybe Creams wasn't out there selling drugs with other
7 members in spring of 2015 when Jay Greer was out there, but
8 it's also not the full story because you heard wire calls and
9 jail calls showing that he did work with other members of MMP.
10 There's the wire call with Lockley where Creams says he wants
11 to get with Lockley on the sister tip.

12 There's the wire call between Anderson and Lockley
13 where Anderson says Creams has been calling his phone.

14 There's O sheets from Bailey's iCloud account, such as
15 IC-2, which refer to Creams.

16 There's the jail call with Sydni Frazier. This was
17 Call J-4. And if you remember, in this call, Sydni Frazier
18 calls Creams, Shakeen Davis. And they're using coded language
19 to talk about selling off the shablooki. That's coded language
20 for drugs. And they're talking about Mugs and Ed or E-Money,
21 who you heard were also members of MMP.

22 And Frazier says, quote, We got to work together.
23 That's the whole point of the situation.

24 So they were a team. That's also consistent with what
25 William Banks told you. He testified that Creams was a member

1 of MMP who sold drugs with E-Money and Mugs.

2 So Creams did work with members of MMP to sell drugs,
3 but he also helped defend MMP's turf and retaliate against
4 rivals.

5 On May 30th of 2015, when a couple guys come through
6 and pull a gun on Nutty B, he whips out an AR-15 and unloads on
7 them in broad daylight in the middle of traffic.

8 Malcolm Lashley witnessed it with his own eyes.

9 And Mr. Hazlehurst, he said Malcolm Lashley couldn't
10 have possibly seen this because he drew a dot on the screen
11 showing that he was in the baseball field, and there were trees
12 in between the baseball fields and the street.

13 Again, your memory controls. I don't remember exactly
14 where Malcolm Lashley placed that dot. But what I do remember
15 is that he said he was across the street. He said he was right
16 across the street.

17 What I also remember is that the photo that
18 Mr. Hazlehurst showed you of the car, the victim's car after
19 it's being shot up, it is going uphill. And you get an angle
20 that shows the tops of the trees there.

21 But if you think back to when we watched the
22 Antoine Ellis video -- remember we watched that lengthy video
23 that Ms. Perry played for you with Detective Juan Diaz on the
24 stand. And it was from the BP gas station, and it was looking
25 across the street.

1 And you watched over a period of several minutes as
2 Dontray Johnson and Antoine Ellis walked across the street to
3 that baseball field where Dontray Johnson then killed
4 Antoine Ellis.

5 There are trees, yes, but you can see -- below where
6 the leaves are, you can see through to where they walked across
7 to the baseball field, so you can see across the street to the
8 baseball field.

9 Furthermore, the crime scene photo that Mr. Hazlehurst
10 showed you shows that the cones were placed where the casings
11 were recovered.

12 And the cones, if you look, are -- they start where
13 the victim's car is, and they move up the street towards the
14 baseball field.

15 So basically, I believe what Detective Carvell
16 testified to was that this indicates that the shooter's vehicle
17 was moving past the victim's car as the shots were being fired,
18 which means that the shooter's car would have driven right past
19 that baseball field.

20 So it makes perfect sense that Malcolm Lashley would
21 have seen this from across the street. There's no reason to
22 doubt that.

23 William Banks testified that he heard about it
24 immediately afterward. And Mr. Hazlehurst faulted Mr. Banks
25 for not mentioning Konan in the grand jury, and I think he

1 makes too much of that.

2 William Banks testified that he went up to the BP gas
3 station right after the shooting, and Konan told him what
4 happened. And he said Creams was standing right there as Konan
5 told him.

6 So Creams was basically part of the conversation. And
7 we can assume that what Konan was saying while Creams was
8 standing right there was basically adopted by Creams.

9 So you have Malcolm Lashley's eyewitness account. You
10 have Creams' admission, what amounts to an admission to
11 William Banks afterward. And then you have the jail call with
12 Sydni Frazier.

13 And Mr. Hazlehurst argued that when he says
14 "green tip" in this call, he's talking about drugs, not about a
15 car. And I encourage you to go back and listen to the call,
16 review the transcript.

17 They are talking about a car. They are talking about
18 Shakeen Davis's coupe. And Sydni Frazier asks him what color
19 it is. He specifically asks what color the car is.

20 And that's when Shakeen Davis says that he had it
21 repainted 'cause he, quote, did some dumb shit out of there.

22 Now, Mr. Hazlehurst made a big deal of the fact that
23 the AR-15 that was recovered from Creams in April 2016 was not
24 the AR-15 that Creams used to shoot at those guys.

25 And I think I told you that in my opening statement,

1 and that's not too surprising. It's almost a year later when
2 that AR-15 is recovered from Shakeen Davis. It's almost a year
3 after the shooting.

4 So it's not surprising that in that time, he would
5 have gotten rid of the gun that he used to commit a shooting.
6 He would have gotten a new gun.

7 And you heard -- you heard from Jarrud Dixon, among
8 other witnesses, how easy it was for members of the gang to
9 acquire firearms from drug customers driving in from
10 Western Maryland and other states.

11 But it still goes to his modus operandi. He had a
12 penchant for AR-15s. You saw it in his text messages too. He
13 kept one in his trunk. That was his MO.

14 I think Mr. Hazlehurst, he also mentioned hearing
15 about the shooting from Kane. And I think there may have been
16 some confusion on this point.

17 Again, your memory controls, but I believe
18 Malcolm Lashley testified that he heard about the Nutty B
19 murder from Kane, not that he heard about the shooting by
20 Creams from Kane. He saw the shooting by Creams himself with
21 his own eyes, but he heard about the Nutty B murder from Kane
22 after the fact.

23 So I want to talk very briefly about the verdict forms
24 that you're going to be asked to fill out, and I'm about to
25 wrap up.

1 If you find the defendant guilty of Count 1,
2 racketeering conspiracy, you'll then be asked to make a
3 determination as to which racketeering activities were
4 reasonably foreseeable to the defendant in furtherance of the
5 conspiracy.

6 And there's going to be a list for you, and I believe
7 Mr. Sardelli put it up on the screen for you. It will be
8 murder, witness tampering, witness retaliation, drug
9 trafficking, drug-trafficking conspiracy, and so on.

10 And remember that you're not being asked to find: Did
11 this defendant commit a murder? Did he commit witness
12 tampering?

13 You are simply being asked whether those types of
14 crimes were reasonably foreseeable to him as part of the
15 conspiracy.

16 Of course, if you find that the defendant personally
17 committed a murder or ordered a murder or attempted to commit a
18 murder in furtherance of the gang or conspired to commit a
19 murder, then murder was reasonably foreseeable to him.

20 But there are a lot of other ways you could find that
21 murder was foreseeable to these defendants.

22 I think I told you in opening, you really couldn't
23 join this gang without knowing that its members would commit
24 murder. Murder was built into the oath, the rules, and the
25 name of the gang itself.

1 Remember the Omertà code: My blood is my honor. My
2 honor is my blood. If I ever dishonor, take my blood.

3 One of the founding rules of the gang was that
4 cooperating with law enforcement is punishable by death, and we
5 saw that rule put into practice again and again.

6 The attempted murder of Snook outside club Mirage.

7 The murder of Ricardo Johnson.

8 The plot to kill Trouble when it was learned he was
9 cooperating against Spittle.

10 The plot to kill Champagne after he entered a
11 cooperation plea agreement.

12 So murder and witness tampering and witness
13 retaliation are baked into the rules of the gang.

14 They make their money selling drugs. But they need
15 violence to protect their turf, enforce their rules, and
16 prevent successful prosecution by law enforcement. That's what
17 allowed this gang to dominate the drug market for so many
18 years.

19 So, in conclusion, ladies and gentlemen, this wasn't a
20 fiction. This wasn't just a rap lyric. It was over six years
21 of murder and mayhem.

22 And by intimidating and retaliating against witnesses,
23 the defendants created a culture of fear and contempt for the
24 rule of law, all with the goal of never ending up here in a
25 court of law, facing a jury of citizens just like you.

1 Mr. Enzinna was absolutely right when he said that the
2 right to a trial by jury is one of the most important rights
3 that we as citizens have in this country, and we're indebted to
4 you for your service as jurors in this case.

5 The beyond-a-reasonable-doubt standard is high, as it
6 should be. But the evidence in this case far surpasses it.

7 The word "verdict" comes from the Latin "verdictus,"
8 which means "to speak the truth."

9 You have the opportunity in this case to speak the
10 truth. Find the defendants guilty.

11 Thank you.

12 **THE COURT:** Thank you, Ms. Hoffman.

13 In conclusion, ladies and gentlemen, let me remind you
14 that your verdict must be unanimous, reflecting the judgment of
15 each and every one of you.

16 You should consider it in the jury room deliberately
17 and carefully, in light of the instructions I've given you.

18 You should use the same common sense and the same
19 intelligence that you would use in determining any important
20 matter that you have to decide in the course of your own
21 affairs.

22 It is your duty as jurors to consult with one another
23 and deliberate with a view to reaching an agreement, if you can
24 do so without violence to individual judgment.

25 So each of you must decide the case for yourself, but

1 do so only after an impartial consideration of the evidence
2 with your fellow jurors.

3 In the course of your deliberations, do not hesitate
4 to re-examine your own views and change your opinion, if
5 convinced it is erroneous.

6 But do not surrender your honest conviction as to the
7 weight or effect of evidence solely because of the opinion of
8 your fellow jurors or for the mere purpose of returning a
9 verdict.

10 If, after carefully considering all of the evidence
11 and the arguments of your fellow jurors, you entertain a
12 conscientious view that differs from the others, you are not to
13 yield your conviction simply because you are outnumbered.

14 Now, as I think I mentioned a long time ago back at
15 the beginning of this case, when you retire to the jury room,
16 one of your first duties will be to elect a foreperson. It can
17 be any one of you. The foreperson does not get an extra vote,
18 but that person will preside over your deliberations and be
19 your spokesperson in court.

20 If it becomes necessary during your deliberations to
21 communicate with the Court, you can send out a note. There
22 will be a court security officer posted outside the door.

23 You should not attempt to communicate with the Court
24 except in writing.

25 You'll be able to tell from the oath that the court

1 security officer takes that he, as well as all other persons,
2 are forbidden from communicating in any way or manner with any
3 member of the jury on any subject touching the merits of the
4 case. I mean your discussion of the evidence.

5 And you should also keep in mind that you should not
6 tell the Court or anyone else how you stand in terms of any
7 numerical division, any vote that you might take, until after
8 you've reached a unanimous verdict.

9 As I've told you and counsel have mentioned, to record
10 your verdicts in this case, there are verdict forms. There is
11 one for each defendant, and you consider them separately and
12 consider the counts separately, as I've told you.

13 I'm not going to review them all with you again
14 because I did that earlier, but it will take you through
15 Counts 1 and 2 and any other count that are applicable,
16 depending on the defendant you are considering. And there will
17 be certain questions for you to answer unanimously.

18 Once you've reached a unanimous agreement, your
19 foreperson should fill out the verdict form in accordance with
20 the agreement and sign it and date it. There's a place at the
21 end for the date and signature of the foreperson.

22 Once you have agreed and finished completing all the
23 verdict forms, the foreperson should just knock on the door,
24 let the clerk or the court security officer know simply that
25 you have agreed upon a verdict.

1 You shouldn't disclose or indicate in any way what the
2 verdicts are at that time because the verdicts have to be
3 announced for the first time in open court.

4 So when you come back to the jury box, after your
5 deliberation is done, the clerk will ask something like: Have
6 you agreed upon your verdict?

7 And we hope you will collectively respond that you
8 have.

9 The clerk will ask something like: Who shall speak
10 for you?

11 And you should respond your foreperson, whoever that
12 is.

13 The foreperson will be asked to stand and present the
14 verdict forms to the clerk. She'll show them to me.

15 And after they are reviewed, the clerk and the
16 foreperson, most likely, will be asked to read the verdicts out
17 loud in open court.

18 I'll just remind you, as you've already been told, but
19 this also applies, of course, to your deliberations: You
20 should not be conducting any research. You should not use any
21 outside source to learn more about this case. You should not
22 communicate with anyone other than your fellow jurors about
23 this case, again, the merits, your discussions of the evidence,
24 any of that.

25 Until the jury comes back and returns its verdicts in

1 open court, you should just not comment in any way -- in
2 person, over the telephone, through the Internet, or any other
3 means -- about this case. It's only to be discussed with your
4 fellow jurors.

5 Now, while you are in the jury deliberation room --
6 and I'm sure Ms. Moyé will make this clear as well -- your
7 electronic devices, if any, must be completely off.

8 Only when you are on a break from deliberations may
9 you turn on your cell phone or any other electronic device to
10 communicate with anyone outside of your fellow jurors. Again,
11 only to discuss matters that are not related to this trial.

12 All right. The last thing that I have to do before
13 sending you out -- and I never know whether this is going to
14 make people happy or unhappy -- but we do have four alternates
15 in this case.

16 It is extremely important to have alternates. In
17 fact, it's quite remarkable that all of the jurors are still
18 here and still serving. We're very glad of that fact.

19 I am not allowed, unfortunately, to include the
20 alternates in the deliberations, so I'm going to excuse the
21 alternates at this time.

22 However, having said that, just in case -- we
23 certainly hope not -- but if there is any issue with any of the
24 other jurors before deliberations are finished, I will ask the
25 four alternates -- instruct the four alternates to continue to

1 follow the instructions.

2 Don't discuss this case with anyone. Don't talk about
3 it. Don't do any research on it. Don't Facebook, Internet,
4 anything like that.

5 And please make sure that Ms. Moyé knows how to reach
6 you just in case you would be needed at some point during the
7 deliberations.

8 But at this point, I have to excuse you. I'll ask you
9 to go back in the jury room with Ms. Moyé.

10 (Alternate jurors excused at 1:09 p.m.)

11 **THE COURT:** All right. If I could see counsel at the
12 bench just briefly.

13 (Bench conference on the record:

14 **THE COURT:** Just to be clear, what I'm going to do
15 now, what I'll tell the jury is I will be sending in the
16 instructions. I'll probably give them several copies.

17 We'll be sending -- Counts 1 through 3 are contained
18 in there, but they'll get copies of the other ones. You can
19 look at them and make sure -- but eventually the exhibits will
20 be sent in.

21 I'm going to tell them that if they need to see any of
22 the alleged drugs or firearms or listen to recordings, that
23 they will need to send out a note and come back in for that
24 purpose; but, otherwise, we'll gather up the exhibits and send
25 them back in.

1 **MS. AMATO:** Do they begin deliberation immediately?

2 Or do they go to lunch? Or how --

3 **THE COURT:** They have had lunch ordered for them.

4 **MS. AMATO:** Oh, okay. So they have lunch if they need
5 one.

6 **THE COURT:** So they do not need to go out.

7 We will also tell them that the length of their
8 deliberations is entirely up to them; that if we haven't heard
9 anything from them by 5 o'clock, I'll be calling them back in
10 to see if they want to continue deliberating or retire and go
11 home and come back the next day.

12 Okay. All right. Thank you.)

13 (Bench conference concluded.)

14 **THE COURT:** All right. Ladies and gentlemen, in just
15 a moment we'll have the court security officer take the oath,
16 and you'll be going back into the deliberation room.

17 It will take a few minutes, but we will be gathering
18 together -- I'll give you several copies of the jury
19 instructions.

20 The jury instructions incorporate -- they include
21 Counts 1 through 3.

22 There were some other counts, separate counts that I
23 mentioned. We'll send separate copies of those other counts
24 back in just so that you can follow them easily along with the
25 verdict form.

1 We will also be gathering up most of the exhibits and
2 sending them back in to you.

3 We will not be sending in the alleged narcotics and
4 firearms and the actual recordings of conversations. You'll
5 have the transcripts. But, again, as I told you, the
6 transcripts are just an aid.

7 If you want to hear any of the recordings again, if
8 for any reason you wish to see any of the evidence that has not
9 been sent back, such as the alleged narcotics or firearms,
10 you'll need to let us know. And we'll bring you back into
11 court in order that you can examine that evidence or listen to
12 those recordings again.

13 The other thing is that the length of your
14 deliberations is entirely up to you.

15 If we have not heard from you by about 5 o'clock, I
16 will probably -- I will gather again. I'll bring you back into
17 court and just ask you whether you wish to continue
18 deliberating past 5 o'clock or go home and come back and
19 continue the deliberations tomorrow morning.

20 So that would be the schedule.

21 We'll have the court security officer sworn.

22 **THE CLERK:** Please raise your right hand.

23 DAVID COBB, COURT SECURITY OFFICER, SWORN.

24 **THE CLERK:** Please state your name for the record.

25 **COURT SECURITY OFFICER:** David Cobb, C-O-B-B.

1 **THE CLERK:** Thank you.

2 **THE COURT:** All right. Ladies and gentlemen, if you
3 would, you can, of course, gather up any notes or things that
4 you have and go into the jury deliberation room. And you will
5 also have lunch. There is lunch for you.

6 **THE CLERK:** It's there.

7 (Jury retired to begin deliberations at 1:14 p.m.)

8 **THE COURT:** All right. We'll excuse the gallery.

9 (Pause.)

10 **THE COURT:** All right. I'm going to have some
11 additional copies of the instructions and the verdict forms
12 made and send them back down.

13 And if counsel can also take a look and get the extra
14 counts of the indictment that you all agree upon can be sent
15 back, and, of course, agree on the exhibits going back so that
16 only the correct exhibits go back. And be somewhere where
17 Ms. Moyé can reach you after that quickly in case there's a
18 question or anything from the jury.

19 Other than that, we will -- yes, Mr. Hazlehurst?

20 **MR. HAZLEHURST:** Your Honor, I had lodged an objection
21 originally when the Government was questioning Mr. Banks in
22 regard to DEM-6, which was the glossary that the Government was
23 preparing as he testified. And I believed it to be inaccurate.

24 Also, Your Honor, quite frankly, I still believe that
25 the jury's memory, because they were all taking notes as he

1 testified, should control.

2 So I would like to note an objection to DEM-6 going
3 back. And I think at the time when I made the objection, I
4 think Your Honor -- it was very early on in the trial -- and
5 said, Well, we'll get to that.

6 But, again, I just wanted to reiterate that objection
7 and note it for the record.

8 **THE COURT:** Okay.

9 **MR. SARDELLI:** And, Your Honor, just so I understand
10 this correctly, you know, as to the counts Mr. Banks was
11 charged with, the indictment's not going back; correct?

12 **THE COURT:** That is correct. We are not sending back
13 the full indictment with everything in there for Counts 1, 2 --
14 for that matter, 3.

15 We are sending back -- and you can certainly look at
16 them before they go back, just to make sure that it's what you
17 think it is, but it's supposed to be just the separate pages
18 of -- and for your client, that's nothing because it's only 1
19 and 2.

20 **MR. SARDELLI:** Yes, Your Honor. Thank you.

21 **THE COURT:** Okay. Any other objection or issue
22 relating to the exhibits?

23 **MS. HOFFMAN:** I think we should probably discuss -- so
24 as to the social media exhibits, Ms. Whalen had filed a motion
25 to exclude all social media that hadn't yet come into evidence.

1 And I think we ended up kind of dealing with it on a
2 case-by-case basis. But then the question remains: What
3 actually goes back to the jury now?

4 We have, similar to the text messages where we, you
5 know, pulled out certain excerpts from cell phones and then
6 only read certain parts of it into the jury, we did the same
7 thing with the social media excerpts. So we picked out
8 excerpts. We only ended up reading certain parts of them to
9 the jury.

10 We would like to send all of them back to the jury
11 except for the things that have been objected to and Your Honor
12 has sustained.

13 But we wanted to know what Your Honor's ruling would
14 be on that.

15 I assume Ms. Whalen objects and only wants what's
16 come -- the literal pages that have come in to go back.

17 **MS. WHALEN:** And that is correct, Your Honor. I think
18 the whole notion -- or the whole motion was relating to our
19 ability to have notice of what's going to be played or played
20 and/or shown to a witness and to be able to object.

21 And so whatever has been shown and you've overruled
22 objections, of course, we have no problem with that going back
23 to the jury.

24 But these extra items that are out there that we have
25 not seen or heard about, we do object.

1 **THE COURT:** I guess my assumption on the social media
2 was that what was shown to the jury was what was being
3 admitted. I mean was going to go back to the jury as well,
4 that you had the opportunity to pick out and show quite a bit,
5 and that anything else was going to be cumulative and didn't
6 add to the evidence. I think it's a lot safer to just send
7 back what the jury saw.

8 **MS. HOFFMAN:** I think it's slightly complicated for us
9 because then we need to go through and figure out exactly which
10 pages were put on the screen. We can do that, but it will take
11 us a little bit of time.

12 So I think probably, if that's Your Honor's ruling,
13 we'll have to send everything else back to the jury first and
14 then take some time going through to figure out --

15 **THE COURT:** Okay.

16 **MS. HOFFMAN:** -- going through our notes, because I
17 believe Ms. Moyé stamped the whole -- you know, the whole --
18 the same for the text messages; right?

19 **THE COURT:** Right.

20 **MS. HOFFMAN:** So we're going to have to look through
21 our notes to figure out what pages were put on the screen and
22 redact the -- we'll want to keep the same pagination so that
23 the record is clear on appeal.

24 So I think we'll just have to -- if there is a page
25 that didn't -- wasn't shown, then we'll have to redact that

1 page, basically.

2 **THE COURT:** Okay. All right. Well, you're right;
3 that will, unfortunately, take some time. But it seems like
4 the safest thing to do. Okay.

5 And in the absence of any additional objection, I
6 think the argument that it is -- well, let's see.

7 The demonstrative exhibit that's being objected to is
8 just Mr. Banks' list of terms; is that right?

9 **MR. HAZLEHURST:** On behalf of Mr. Davis, yes, that is
10 the objection, Your Honor.

11 **THE COURT:** Okay.

12 **MR. TRAINOR:** Your Honor, my client had a question.

13 As to the transcripts that are going back, are those
14 only the transcripts of calls that were actually played for the
15 jury?

16 **THE COURT:** I would think so. Is that going to
17 require -- are there a lot of calls in the transcript books
18 that weren't played?

19 **MS. HOFFMAN:** There are. There are a significant
20 number of calls that we didn't end up playing. They all came
21 into evidence on a disc -- well, there were several wire discs
22 and a jail disc. But there were calls that weren't played.

23 **THE COURT:** All right. Which means that at this point
24 we should retrieve the transcript books and remove the
25 transcripts of calls that were not played.

1 Okay. Thank you.

2 Do you want to be heard on the Demonstrative No. 6,

3 Mr. Banks' list of words?

4 **MS. HOFFMAN:** Sure.

5 Just briefly, though, on the latter point, does that
6 mean that -- so if the transcripts of the calls that aren't
7 played are not going back, does that mean that the calls that
8 weren't played are not in evidence?

9 **THE COURT:** Not in evidence for the jury to consider
10 at this point. I don't know exactly if there's some other
11 way -- if you want to preserve the fact that they were all in
12 evidence at one point, I mean, that they exist.

13 But it's going to be -- I think it would be a little
14 difficult to let the jury be sort of flipping through
15 transcripts of calls that they didn't hear.

16 **MS. HOFFMAN:** Sure.

17 **THE COURT:** So I do think those need to come out.

18 **MS. HOFFMAN:** Okay.

19 **THE COURT:** They're identified. They're part of the
20 evidence in that sense, I mean.

21 **MS. HOFFMAN:** As to DEM- -- now I can't remember if
22 it's DEM-5 or -6.

23 **THE COURT:** -6.

24 **MS. HOFFMAN:** The glossary, we do ask that that be
25 sent back to the jury. I do think it's a helpful memory aid to

1 them.

2 As Your Honor knows, typically in cases like this, the
3 Government will call some kind of drug expert to talk about the
4 meaning of various drug terminology. We didn't do that in this
5 case. We thought it would save time and maybe even be more
6 credible coming from someone on the street.

7 But we do think it's an important and helpful memory
8 aid for them.

9 **THE COURT:** All right. And I will let that one go
10 back. I see it sort of in the same category as the chart of
11 photographs and nicknames. It's part of the evidence, and it's
12 something that helps them make sense of what's been a long,
13 complicated trial.

14 So Ms. Moyé can get the transcript books back, and
15 counsel can begin the process of making clear that only the
16 appropriate exhibits go back.

17 In the meantime, the jury presumably can have lunch
18 for a little while, and I will get some additional copies of
19 the instructions and the verdict forms.

20 **MR. SARDELLI:** Just one issue, Your Honor. Since they
21 have taken them back there already -- and I don't know if they
22 have taken them back during the course of the trial. Do we
23 need an instruction about if they've already previously looked
24 at the calls and stuff? Because they may be back there right
25 now already looking through the calls and going through the

1 evidence. And so that could cause a problem for the record,
2 Your Honor.

3 **THE COURT:** I think I was pretty clear on the
4 recordings being the evidence and that's -- the transcripts
5 being only an aid.

6 And so the only thing they could be considering are
7 the recordings that were played. So I appreciate that.

8 But I think if we get the transcripts back and they
9 listen to all my other instructions, it should be not a
10 problem.

11 Anything else?

12 (No response.)

13 **THE COURT:** Okay. We'll be in recess until we hear
14 from the jury or until 5 o'clock, at which point everybody
15 should be back in court.

16 Thank you.

17 (Recess taken.)

18 (5:03 p.m.)

19 **THE COURT:** All right. Good afternoon, everybody.

20 I have a note to send in to the jury which says
21 [reading]: Dear jurors, do you want to continue deliberating
22 until 5:30 today? Do you want to come back tomorrow at 9:00,
23 9:30, or 10:00?

24 So I would propose to send them the note and see what
25 response we get.

1 And while we're waiting, I assume counsel were able to
2 go through and remove the transcripts and take care of the
3 social media exhibits and all that sort of thing?

4 **MS. HOFFMAN:** We're still working on it. We made some
5 progress, but we are still making copies of the new set of
6 transcripts. The binders were double-sided, so we have to redo
7 everything.

8 And we have iCloud exhibits we finished going through.
9 We just have to compare with Defense.

10 And we've gone through about half of the social media,
11 and we'll then have to compare with the defense.

12 And so we probably won't be able to have it ready to
13 go back to the jury until tomorrow morning.

14 **THE COURT:** Tomorrow morning. Okay.

15 (Pause.)

16 **THE COURT:** Okay. Excuse me. The answer to the first
17 question, "Do you want to continue deliberating until
18 5:30 today?" is "no."

19 And the answer to the second question is, "Do you want
20 to come back tomorrow?" and they've circled "9:00." They would
21 like to come back at 9 o'clock.

22 I am going to invite them in, give them the usual
23 closing instructions, and tell them they can come back at 9:00.

24 I do not need counsel and everybody in court at 9:00.
25 I will just tell them not to begin deliberating until they are

1 all together.

2 (Jury entered the courtroom at 5:07 p.m.)

3 **THE COURT:** So, ladies and gentlemen, thank you for
4 your response to the note. I think you're ready to go home
5 today and starting tomorrow morning at 9 o'clock. Thank you.

6 I will just give you the usual instructions: Leave
7 all your notes here. Don't talk about the case.

8 When you come back tomorrow morning, don't begin
9 deliberating until you're all back together again. Once you're
10 all together, then you can begin the deliberations again.

11 My understanding is that you have received some
12 exhibits, not all. Counsel are in the process of making sure
13 that only, for example, from the social media, that you get
14 what was shown to you; and that as far as the transcripts and
15 the books, to make sure that you have the transcripts for the
16 recordings that you actually listened to.

17 As I told you, the recordings are the evidence, and so
18 we want to make sure that you have the transcripts just for
19 those recordings.

20 So I think that tomorrow morning at some point, I hope
21 early, the rest of that will be ready to come in to you.

22 So, in any event, thank you very much.

23 Again, leave your notes here. Don't talk about the
24 case. And when you're all back together tomorrow morning at
25 9 o'clock, you may continue deliberating.

1 Thank you very much.

2 (Jury excused at 5:09 p.m.)

3 **THE COURT:** Counsel, any issues?

4 **MS. HOFFMAN:** No issues; but if defense counsel can
5 stick around.

6 **THE COURT:** I'm sorry. I can't hear you.

7 **MS. HOFFMAN:** If defense counsel could remain just to
8 go through what we've pulled out of the exhibits, that would be
9 helpful so we can at least get on the same page about the ones
10 we've gone through.

11 **THE COURT:** Okay. That would be helpful.

12 All right. We'll excuse the gallery.

13 All right. And I expect everyone will be here and
14 available again by 9:00 in the morning, but we don't need to
15 all gather. We'll wait to hear something from the jury.

16 Okay. We're in recess. Thank you.

17 (Court adjourned at 5:11 p.m.)

18 I, Douglas J. Zweizig, RDR, CRR, FCRR, do hereby certify
19 that the foregoing is a correct transcript from the
20 stenographic record of proceedings in the above-entitled
21 matter.

22 _____
23 /s/
24 _____
25 Douglas J. Zweizig, RDR, CRR, FCRR
 Registered Diplomate Reporter
 Certified Realtime Reporter
 Federal Official Court Reporter
 DATE: November 20, 2019

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